Constitutional Conventions of Ohio

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Few seem to realize the importance of the constitutional convention in American state governments. It is the great agency through which democracy finds expression. In its latest form, that of a body made up of delegates elected from districts of equal population, it is one of the greatest of our political inventions. Through it popular rights may be secured in the constitution, legislative tyranny restrained, and powerful interests subordinated to the general welfare. Not that these objects have as yet been attained, but the agency is here through which an enlightened public opinion can express itself.

—JAMES QUAYLE DEALEY.

FOREWORD

The chapters on the following pages have been published widely through the newspapers of Ohio. The demand for them in compact and convenient form has been so frequent and insistent that they are republished and presented in their original form. To them are appended brief estimates of the delegates to the different state constitutional conventions and a complete list of their names.

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STATE CONSTITUTIONS

The state constitutions are the oldest things in the political history of America, for they are the continuations and representatives of the royal charters, whereby the earliest English settlements in America were created, and under which their several local governments were established, subject to the authority of the English crown and ultimately of the British parliament. But, like most of the institutions under which English-speaking peoples now live, they have a pedigr e which goes back to a time anterior to the discovery of America itself. It begins with the English trades guild of the middle ages, itself the child of still more ancient corporations, dating back to the days of Imperial Rome and formed under her imperishable law. JAMES BRYCE.

The earliest British colonies of America, of which the original thirteen states were the direct descendents, were those of Virginia and Massachusetts Bay. The former was chartered in 1609 under the title of "The Treasurer and Company of Adventurers and Planters of the City of London for the First Colony of Virginia." The latter, in 1628, under the title of the "Governor and Company of the Massachusetts Bay in New England." When the American Colonies declared their independence in 1776, their charters, under the British crown, became their constitutions under the Republic, in most instances with material and extensive modifications, but in the case of three states, Massachusetts, Connecticut and Rhode Island, with no change except to substitute the authority of the state—the people, for that of the crown. These "charter-constitutions" remained in force in Massachusetts till 1780, in Connecticut till 1818, and in Rhode Island till 1842. The constitutions of the original states have several as a guide to the people of the states subsequently admitted. Those of some of the older states have been extensively revised and amended, but they all bear distinctive evidence of their common origin.

The relation of the states to the general government is, however, quite different in some respects from that of the English colonies to the crown. The latter derive all their powers from the British Government, which reserves authority to alter charters and veto laws at its will. Our central government at Washington may, it is true, specify the character of the constitution of a new state seeking admission into the Union, and this power has been used, notably in the case of Utah and more recently on the occasion of the admission of Arizona, but it cannot alter a state constitution once adopted, or veto a law enacted under its provisions. The constitution of the United States, to the extent of its expressed and implied powers, is supreme, but there its authority ends; for it expressly declares that "the powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to he people."

The constitution of the United States does not specifically provide the manner in which new states shall become members of the general government. It simply declares that "new states may be admitted by the Congress into this Union; but no new state shall be formed or created within the jurisdiction of any other state; nor any state be formed by the junction of two or more states or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress."

While the mode of admission has varied somewhat, it has usually been in accordance with the following form: A territory having sufficient population sends a petition to Congress, asking permission to form a state constitution preparatory to admission into the Union. Congress passes an enabling act granting the request. The people of the territory then hold a convention,

form a constitution and usually submit it to the people for approval or rejection. Ohio, as we shall see, was an exception to the last of these conditions. Her first constitution was not submitted to popular vote. After the constitution has been provisionally adopted, it is sent to Congress for approval. If the preliminary action on the part of the territory seeking admission has been satisfactory to that body and the new constitution is free from serious objection, Congress admits the new state into the Union. The constitution is therefore a compact freely approved and entered into by the state and nation. Once adopted, it can be revised or amended only by the state.

Divisions of a State Constitution.

The parts of a state constitution usually are:

1. The enacting clause or preamble.
2. The bill of rights.
3. The frame of government.
4. Miscellaneous provisions.
5. The schedule.

The introductory declaration of a constitution is generally called a preamble, although it is not so named in the constitution of the United States or either of those framed for Ohio. A writer objects to the use of the term preamble, "for," says he, "it was not applied by those who framed the constitution and is not found in the original manuscript. It is not a preamble, either in form or substance, but is the enabling clause—an integral part of the constitution itself. A preamble gives reasons why a resolution should be adopted or an enactment made, but it is no part of the resolution or enactment. The enacting clause, on the contrary, is mandatory. Such is the introductory sentence of the constitution." This reasoning holds, as we shall see, not only for the basic law of the United States, but for that of Ohio as well.

Following is the enacting clause of our first state constitution:

"We, the people of the eastern division of the territory of the United States, northwest of the river Ohio, having the right of admission into the general government, as a member of the Union, consistent with the constitution of the United States, the ordinance of Congress of one thousand seven hundred and eighty-seven, and the law of Congress, entitled 'An act to enable the people of the eastern division of the territory of the United States, northwest of the river Ohio, to form a constitution and state government, and for the admission of such states into the Union, on an equal footing with the original states, and for other purposes, in order to establish justice, promote the welfare and secure the blessings of liberty to ourselves and our posterity, do ordain and establish the following constitution or form of government; and do mutually agree with each other to form ourselves into a free and independent state, by the name of the state of Ohio."

The enacting clause of our present constitution is brief. It contains only the following declaration:

"We, the people of the state of Ohio, grateful to Almighty God for our freedom, to secure its blessings and promote our common welfare, do establish this constitution."

We have here a distinct recognition of the diety which does not appear in the constitution of the United States or in our state constiution framed in 1802. The convention of 1873-74, adopted an enacting clause identical with that of our present constitution.

The bill of rights is a series of declarations of the general and fundamental rights reserved to the people. These include, of course, the natural and inalienable rights of "life, liberty and the pursuit of happiness," more specifically stated. The bill of rights in our first constitution included twenty-eight sections, in our second, twenty, and in that of 1874, twenty-one sections. The

subject matter in all these is essentially the same. The bill of rights usually follows immediately the enacting clause, but it is sometimes written into the closing portion, as it was in our constitution of 1802.

The bill of rights comes down to us from the famous Magna Charta. The original purpose was to secure to the people certain fundamental rights against the despotic power of the sovereign. In a republican government, where the people are sovereign, it would seem superfluous to promulgate this series of declarations to protect the people from themselves. It may be answered, however, that popular majorities may become tyrannical and that these declarations extend a salutary protection over minorities and individuals. They serve also to restrain legislatures, which are often objects of serious solicitude to those who elect them.

The bill of rights in the constitution of the United States includes the first ten amendments. This portion of a state constitution is more extended and sometimes contains items that might more properly be placed with the miscellaneous provisions.

Frame of Government.

Under the frame of government are included the three departments, legislative, executive and judicial. In a general way it is the function of the legislative department to enact the laws; of the executive department to enforce the laws, and of the judicial department to expound the laws and apply them to individual cases.

Under a state constitution the legislative function is vested in a general assembly or legislature, consisting of two branches, a senate and a house of representatives. The latter is the more numerous body; the former is supposed to be the more dignified and select. The members of both are elected by the people and in fact do not differ essentially in general character and ability. The upper body, being smaller in number, is for that reason less unwieldy and more orderly and expeditious in the transaction of business.

In recent years the people in a number of states have reserved to themselves the right to initiate and enact laws. When such reservation has been made, the electorate must be included with the law making power. Oregon has had most extended experience in direct legislation.

The executive function is vested in the governor and elective or appointive administrative officers. It is their duty to see that the laws are executed or carried into effect. For instance, in Ohio the pure food laws are enforced under the direction of a dairy and food commissioner elected by the people, and the insurance laws are administered by a commissioner of insurance appointed by the governor. Most of the actual work is done by the large number of subordinate appointees under the heads of the different departments.

The judicial department is vested in the courts, supreme and inferior, whose duties are to interpret and apply the laws. In our state they consist of the supreme court, the circuit courts, the courts of common pleas, the probate courts and the courts of justices of the peace.

The theory of the framers of our constitutions, state and national, was that these three departments should be independent of one another, and so far as the framing of the constitutions is concerned, this independence is preserved. In actual practice, however, all three transcend their theoretical limitations. The supreme court may declare a law unconstitutional, supply by interpretation what is not expressed, and read into an act what in its judgment may reasonably be inferred. The law of the land is found not only in the written statutes, but in the opinions and decisions of the courts as well.

Between the legislative and executive departments the exchange of authority is more frequent and flagrant. The chief executive, be he governor or

president, is much more than an administrative officer. His veto gives him power to prevent legislation. Through his messages to Congress or the general assembly he may advise the enactment of laws. This privilege would not in itself be very effective were it not backed up by the alluring and persuasive power of patronage. The trading of political jobs for legislation was long so common that the people had come to look upon it as a matter of course—a part of the game. For a governor to distribute a few fat offices among members of the legislature in return for the support of his favorite measures, sometimes designed to help him toward a political goal, was considered and even to this day, by practical politicians, is considered quite the proper thing; but for the "big interests" that have no offices to give, to distribute cold cash in behalf of the passage of their measures, is regarded as a heinous crime. Both offenses are about equally reprehensible and demoralizing, and the time is probably not far distant when they will be so regarded. There is no reason why a governor or prsident should become, through the distribution of spoils, ex-officio the chief corruptionist of the state or nation.

There is, however, a demand among the people themselves that their chief executive take a leading part in the campaign for legislation, with the qualification, of course, that it be for "good legislation." In these days a governor or president, who confines himself strictly within contemplated and prescribed constitutional limitations, is pretty certain to be severely criticized for "sitting still and doing nothing," whille the legislature or Congress "fritters away the time" in vain vaporing and turbulent inactivity. What the future relation between these two departments may be is, of course, a matter of conjecture, but there is warrant for the hope that it will be based on something less reprehensible than "hire and salary" with political jobs as the medium of exchange. The example and influence of this system is bad—a standing invitation and suggestion to all forms of corruption.

The miscellaneous provisions of a constitution include such as may not be classed properly under the preceding divisions. They, of course, are not uniform for all states or for the same state at different periods. The modern tendency has been distinctly to increase their number. In spite of the demand of editors and authors for "a state constitution of a few plain, simple, general provisions," the more powerful and persuasive call of our modern complex civilization leads in the opposite direction. There is continually more and more to protect, promote and prohibit by constitutional mandate. There is a popular distrust of legislatures, and this is extending in some degree to the courts. In recent years there has been a disposition to center authority, responsibility and trust in the governor, and sometimes it has seemed that we are on the eve of a revival of the fettish, "the king can do no wrong." It has been possible for governors to do things with impunity that would bring down upon a legislature denunciation from the housetops. But this rehabilitation of one man power will soon have had its day, and it requires no prophet to predict that the superabundance of gubernatorial prerequisites, preogatives and powers will be relegated to the scrap heap of the past.

A Short Constitution.

It would be possible, of course, to provide for a legislature, to eliminate all miscellaneous provisions and compress the remainder of the state constitution into a single sentence, something like this:

The general assembly shall trust in God and legislate in the interest of justice, liberty and humanity.

It is morally certain, however, that such a constitution, like the religious

inscription on our coins, excellent and all inclusive though it be, would not prove adequate in practical application.

Modern tendencies, it is therefore safe to say, portend an expanding basic law and a little more "legislating in the constitution," though it is generally agreed that the latter should be reduced to a minimum.

The schedule provides for carrying the constitution into operation. A new constitution brings changes. It supersedes a previously existing constitution or instrument of government. It is important that the change be attended with as little friction as possible. To provide for this a schedule of several sections is generally necessary, specifying when and how the constitution shall be submitted to a vote of the people, and when and how, if adopted, its provisions shall go into effect. In the schedule are included also any independent propositions to be submitted to the people. Upon adoption these become parts of the constitution.

The various divisions here briefly presented are exemplified in our present state constitution as follows:

1. Enacting clause or preamble.
2. Bill of rights.
   - Article I.
3. Frame of government.
   - Article II. Legislative.
   - " III. Executive.
   - " IV. Judicial.
4. Miscellaneous provisions.
   - Article V. Elective franchise.
   - " VI. Education.
   - " VII. Public institutions.
   - " VIII. Public debt and public works.
   - " IX. Militia.
   - " X. County and township organizations.
   - " XI. Apportionment.
   - " XII. Finance and taxation.
   - " XIII. Corporations.
   - " XIV. Jurisprudence.
   - " XV. Miscellaneous.
   - " XVI. Amendments.
   - " XVII. Elections.
5. Schedule.

CONSTITUTIONAL CONVENTION OF 1802

The constitutions of the various states are the latest authoritative manifestations of the evolutionary development of ideas of popular government. In the older states the progressive steps are seen in the amendment and revision of written constitutions. Ohio is no exception to the general rule. "New occasions teach new duties," and the basic law of our commonwealth, like its social, industrial and political fabric, changes with the demands of the passing years. Under portions of our first state constitution we could still live and prosper; under some of its provisions, efficient administration would be impossible.

It is a significant fact, paradoxical though it may seen, that our revolutionary forefathers, even in the fresh and lambent glow of the Declaration of Independence, with its sweeping and all-inclusive claims "that all men are created equal" and that "governments derive their just powers from the consent of the governed," did not, if we judge from their laws and constitutions, entertain implicit faith in the capacity of the people for absolute self-government—for direct and unrestricted participation in the election of rulers and the making of laws. In framing the constitution of the United States they did not provide that citizens should vote directly for president, on the ground that they did not possess the requisite intelligence to make a wise choice for this high office. The people were given power to choose electors, who, in turn, after deliberate and conservative consideration of the whole field of eligibles, were to choose a president of the United States must as a modest and conscientious board of trustees choose a president of a state university. The old form still remains, but the people have bound their electors to vote their choice, and thus virtually elect directly their chief magistrate, whose name under the party emblem tells them where to mark the ballot.

The first constitution of Ohio reflects in a general way the dominant views of our young republic on matters of government. There are exceptions, of course, including the declaration against slavery that came down from the Ordinance of 1787. As frequently stated, the formation and adoption of this constitution were precipitated by the political conditions that prevailed in the Northwest Territory. The old federal party of Washington and Adams was not popular in the West, and the somewhat autocratic rule of Governor St. Clair, its chief exponent in this region, helped still further to array the people against it. Edward Tiffin and other friends of Jefferson wished speedily to erect a new state in order to dispose of St. Clair and add to the votes of the party of Jefferson in the electoral college. The impelling power of party enthusiasm had much to do in rushing Ohio into the Union.

But the zeal of party leaders and the progressive ideas of the Jeffersonian democracy, with its alluring and persuasive pleas for a larger participation of the people in their government, did not advance our first constitution much beyond the restricted views of representative democracy generally prevalent at that early date.

Records of the Convention.

The records of the convention that framed the first constitution are indeed meagre. Speeches, memorials and discussions were not reported. The printed journal of proceedings is a mere outline of what was done from day to day, made

up for the most part of formal resolutions and the record of votes. The proceedings for November 6, 1802, are typical:

"Mr. Putnam, from the committee appointed to prepare and report a preamble and the first article of the constitution, reported the first article of the constitution, which was received and read the first time.

"Whereupon,

"Ordered, That the said article be committed to a committee of the whole convention on Monday next.

"On Motion, Ordered, That forty copies of the said article be printed for the use of the members and officers of the convention.

"On motion, Ordered, That a committee be appointed to prepare and report the second article of the constitution on the supreme executive authority.

"And a committee was appointed of Mr. Paul, Mr. Byrd, Mr. Smith, Mr. Gatch, Mr. Darlington, Mr. Kirker, Mr. Massie, Mr. Worthington, Mr. Carpenter, Mr. Putnam, Mr. Gilman, Mr. Huntington, Mr. Milligan, Mr. Wells and Mr. Caldwell.

"The convention proceeded to consider the amendment reported on Thursday last, from the committee of the whole convention, to the preamble of the constitution; and the same being read, was agreed to.

"And then the convention adjourned until Monday morning, ten o'clock."

It is interesting to note with what promptitude and industry the thirty-five delegates, with Edward Tiffin in the chair, proceeded to their work. These serious and enthusiastic statesmen of the frontier wasted no time in uesless delays, social junkets, and spectacular formalities.

On the third day of the session, the committee on rules for the regulation and government of the convention made its report, which was adopted. Other committees were appointed to prepare and report as follows:

"Nov. 3, 1802. A preamble and first article of the constitution.

"Nov. 4. A bill of rights and a schedule for the purpose of carrying into complete operation the constitution and government.

"Nov. 6. The second article of the constitution on the supreme executive authority.

"Nov. 9. The third article of the constitution on the judiciary.

"Nov. 12. The fourth article of the constitution, designating the qualifications of electors.

"The fifth article of the constitution declaring the manner in which militia officers shall be chosen or appointed.

"The sixth article of the constitution, designating the manner in which sheriffs, coroners, and certain other civil officers, shall be chosen or appointed.

"Nov. 15. An article comprehending the general regulation and provisions of the convention."

It will be seen that the convention worked through committees, one for the consideration of each article. These committees from time to time made reports to the convention, where they were considered in committee of the whole. These reports were usually printed and opportunity was afforded for any delegate to offer amendments. The convention finished its work in a comparatively short time. It assembled in Chillicothe, November 1, 1802. On the twenty-ninth day of that month, it had framed, engrossed, adopted and signed the first constitution of Ohio.

Jefferson's Views of Ohio's First Constitution.

Inasmuch as this constitution was the work of the friends of Jefferson, his opinion concerning it may be of interest. "We are told that immediately after the formation of the constitution of Ohio, a leading citizen of our state visited the seat of the general government. In an interview with Mr. Jefferson, then president, that statesman remarked that he had received the evening before and read with much pleasure the constitution of the State of Ohio. It

was an excellent document, he said, but the framers committed the grave mistake of making too many sections and attempting to go too much into detail."

With many other statesmen, Jefferson thought that constitutions, like the Declaration of Independence, should contain broad and general provisions under which the interests of the people could be subserved through the enactment of special laws. The preamble of the constitution of the United States, which in large part was included in the preamble of our first state constitution, is an excellent example. "To establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity" is an ample and generous refuge for statesmen. Even Mr. Jefferson, himself a "strict constructionist," did not hesitate to hie himself thither in time of need, notably on the occasion of the purchase of the Louisiana territory.

While our first constitution was criticised as too detailed and specific, and this was one of the chief reasons urged by an advocate of revision in 1849, it was the briefest and most general in its provisions that the state ever had or perhaps ever will have. The modern tendency is toward detailed, specific and somewhat lengthy constitutions. Our social fabric has become more complex; there is so much more to regulate. "To make sure of it and fix it so that neither the legislature nor the courts can tamper with it, we will put it in the constitution" is a course of reasoning not uncommon in our day. The results are seen in the detailed and somewhat prolix constitution of Oklahoma and the expanding basic law of Oregon, where to make sure that an act will not be thrown out by the supreme court, it is voted into the constitution in the form of an amendment. We were well on the way toward the same goal in Ohio, when political conventions by endorsing amendments caught the voters of straight tickets and virtually changed our constitution at the will of the leaders of the dominant parties.

The first constitution of Ohio was not submitted to the people for their approval. It became operative without this formality, another apparent lapse from the principles of the dominant element in the convention. But they wanted a new state and they wanted it quick. What they did, if it had been submitted to a vote, would undoubtedly have been approved by an overwhelming majority of the people.

The framers of this constitution evidently believed in the short ballot. Under that instrument, in the state at large the governor only was elected by the people. Other state officials were chosen by the general assembly. The governor had very limited authority and could not exercise the veto power. This curtailment, as has been observed, was due chiefly to antipathy toward St. Clair.

Our early statesmen appreciated the importance of providing for the amendment of state constitutions. On this subject Thomas Jefferson wrote:

"No society can make a perpetual constitution or even a perpetual law. The earth belongs always to the living generation; they may manage it, then, and what proceeds from it, as they please during their usufruct. They are masters, too, of their own persons, and consequently may govern them as they please; but persons and property make the sum of the objects of government. The constitution and the laws of their predecessors are extinguished, then, in their natural course, with those who gave them being. This could preserve that being till it ceased to be itself and no longer. Every constitution, then, and every law, naturally expires at the end of thirty-four years."

On another occasion Jefferson expressed a preference for opportunity to amend "every nineteen or twenty years," and the latter was the period fixed in our constitution of 1851. Our first constitution, however, made amendment or revision possible at any time after the year 1806. This could be done only by

a convention of delegates after two-thirds of the general assembly had voted in favor of submitting the proposition and it had been approved by a majority of the people voting for representatives at the next general election.

To recapitulate: We had in our first constitution a comparatively brief statement of basic principles, which was yet sufficiently specific in some of its provisions to make it inflexible to the changing conditions of a growing commonwealth. Under it the executive had little power and the judiciary was dominated by the legislature, in whose members, elected by the people, was vested the chief sovereign power.

We shall see how such a government stood the test of time and met the needs of a rapidly expanding and progressive state.

GROWTH OF OHIO—DEMAND FOR NEW CONSTITUTION PRIOR TO 1850

In 1800 the population of the Northwest Territory, including the present states of Ohio, Indiana, Illinois, Michigan, Wisconsin and a portion of Minnesota, was only 45,365. The census for 1810 showed for Ohio alone a population of 230,760, a remarkable increase of more than 500 per cent over that of the entire territory ten years before. The following decades continued to show a marked and substantial growth. The population in 1820 was 581,295; in 1830, 937,903; in 1840, 1,519,467; in 1850, 1,980,329.

Two influences contributed to the rapid settling up of the state.

1. Its natural resources.
2. Its free institutions.

With a climate of extremes in temperature and humidity, with a generous rainfall, equitably distributed through the year, experience has shown that this region is well adapted to the vegetable and animal life of the temperate zone, the favorite abode of man in a civilized state. In almost every portion of the state springs gush from the earth and unite their waters in streams that flow into our rivers and lakes. The land is generally fertile, in some portions remarkably so. Here may be produced in abundance cereals, grasses and fruits. For raiment, flax may be gathered from the fields and wool shorn from the flocks. Conditions are favorable to the raising of live stock and the hills abound in mineral wealth. The varied and abundant resources invite to many departments of human endeavor. An orator at a local Ohio gathering once said, "Shut this county out from all the rest of the world, and man could labor and live here in the full enjoyment of civilized life." The element of truth in this statement has invited to that diversification of industry and enterprise so necessary to a growing and prosperous state.

The migration to the Northwest was greatly accelerated by the attractive force of free institutions—the charters of civil and religious liberty, the ordinance of 1787 and the first constitution of Ohio. It is scarcely necessary to quote from the former its familiar provision: "There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted."

The motives that led to the unanimous adoption of this provision by the Continental Congress have been the subject of much speculation. Why did the members from the slaveholding states vote for it? It is claimed that their action was not wholly disinterested—that they feared commercial competition with the Northwest and thought that by depriving the territory of slave labor they might secure an advantage over those who should migrate to this region. With slave labor, Virginia could deliver farm products in the markets at less expense than could prospective competitors across the river. If this was the logic of the Southern leaders, it was reversed by the logic of history.

Character of Early Immigration.

The beacon light of liberty that the founders raised in the wilderness called over the mountains and across the river a people alien neither in race nor in spirit to our institutions. Among them were the demure and peaceful Quakers from North Carolina and Pennsylvania, the sturdy Puritans from New England and the ambitious and politically dominant pioneers from Virginia. In the

ranks of these adventurous and enterprising spirits were those who had shown their devotion to the infant republic on the fields of the Revolution. When Lafayette, on his tour through our country, visited our state in 1825, he portrayed, in his brief, impromptu speech at Cincinnati, the fact and the cause of our rapid development as a state:

"The highest reward that can be bestowed on a Revolutionary veteran is to welcome him to a sight of the blessings which have issued from our struggle for independence, freedom and equal rights. Where can these enjoyments be more complete than in the state of Ohio, where even among the prodigies of American progress we are so particularly to admire the rapid and wonderful results of free institutions, free spirit and free industry."

Free institutions, free spirit and free industry—these attracted Puritan and Quaker and Cavalier, and fused them on the altar of freedom.

The influences here set forth were not the only ones that were active in the building up of our state. They were the most important, however. The others were collateral and contributory.

With the rapid growth of our state came a corresponding development of agriculture. The diversification of our industries had its inception early, but it became conspicuously prominent subsequent to 1850.

Internal Improvements.

The people early realized the need of better facilities for transportation. Roads were to be hewn out of the forest; navigable streams were to be improved and utilized, and following the example of New York, under the guidance of DeWitt Clinton, our state inaugurated a system of canals to connect Lake Erie and the Ohio river. A way must be provided to transport the surplus products of the farm. This the state undertook to do. The first constitution, while it did not contemplate this assumption of power, offered no bar to the system of internal improvements that was gradually developed under the fostering care of paternal legislation. Turnpikes, reservoirs and canals were constructed. While they materially accelerated the development of the resources of the state, they brought with their advantages the burden of debt to the shoulders of the people. An enterprise so vast could not be undertaken in that day by private capital, and the state was ill prepared to complete and administer with credit to itself, the work that it essayed with vigor and enthusiasm to accomplish.

Jefferson has already been quoted in favor of providing frequent opportunity for amending or revising state constitutions. It is apparent that the need of change is dependent in no small measure upon the character of the constitution. One may be made so brief and general in its provisions that it will serve for a long time or possibly for all time. The preamble of our national constitution could not be much improved. Perhaps it would not be changed at all if our ablest statesmen were to rewrite that constitution today. The bill of rights in our first constitution in substance, if not in form, will doubtless, in the future as in the past, be a part of any constitution that the people of Ohio may adopt.

The constitution of 1802 contained provisions less flexible than those in its bill of rghts, and it was doubtless these that Jefferson had in mind when he criticised that instrument as on the whole too detailed and specific. The article which for this and other reasons was first proven inadequate and ill adapted to the changing conditions of our rapidly expanding population, was the one relating to the judiciary. Its chief defect grew out of the fact that it made the whole judicial system subject absolutely to the legislature. This in part grew out of the belief, generally prevailing in our country, that the people were not to be trusted with the direct election of their officials, that this power was to be delegated to a more select body chosen by them—in the new state of Ohio, to the legislature. The result was that the judicial department, which should

be the most independent of all, was made the pliant creature of the lawmaking body.

Briefly summarized, the article of the constitution relating to the judiciary provided for a supreme court of three members. After 1807 the number could be increased to four. The judges had original and appellate jurisdiction in common law and chancery "in such cases as directed by law," conserved the peace throughout the state and held court once a year in each county. Provision was also made for courts of common pleas. The state was divided into three circuits, with a president judge in each. Not more than three nor less than two associate judges were chosen in each county. A president judge and not less than two associate judges constituted a quorum for the transaction of business in the common pleas court. Justices of the peace were chosen by popular vote. All judges were chosen by the general assembly, and the road to the judicial ermine was not infrequently through that body. The ambitious candidate was often first elected to the house or senate where he could take a hand at the log rolling for higher honors. If not a member of the legislature, he had in that body a band of retainers looking after his "interests."

Judicial System Becomes Inadequate.

In spite of the subordination of the judiciary, there were sometimes clashes between that department and the legislature. In 1807 occurred a sensational encounter. Judge Pease, president of the third judicial district, decided that the law passed by the legislature, giving justices of the peace jurisdiction in cases exceeding twenty dollars, was unconstitutional. In this he was sustained by Judges Huntington and Todd of the supreme court. For this exercise of authority, Judges Pease and Todd were "brought to time" and impeached by the general assembly. Judge Huntington was elected governor, and for this reason charges were not preferred against him. The other two judges were tried before the state senate, sitting as a high court of impeachment, and acquitted. Not satisfied with the attempt to remove these judges for declaring a law unconstitutional, the legislature in 1810 demonstrated its absolute and irresponsible supremacy by passing the famous "sweeping resolution" which removed all judges of the supreme court, of the court of common pleas, and justices of the peace. It is needless to say that this precipitated almost endless confusion.

With the rapid increase of population the courts were soon far behind their work. They were so clearly inadequate to the demands upon them that as early as 1817 Governor Worthington suggested the calling of a convention to amend the constitution. Governor Brown in 1818 renewed the suggestion, and a year later, in his annual message to the legislature, strongly recommended a complete revision of the judicial system. "The plan," said he, "that might have been sufficient in 1803 is but ill adapted to the altered state of our affairs in 1819."

The proposition to call a convention was submitted to the people in the fall of 1819 and overwhelmingly defeated, the vote standing, for the convention, 6,987; against it, 29,315.

There was, however, among those who had to do with the courts a continued and increasing demand for the reform of the judiciary. Governor Shannon in his annual message of 1847, spoke emphatically on this subject.

"The only defect in the constitution as applicable to our present condition, which, in my judgment, could justify a call of a convention to alter or amend it, consists in the defective organization of our judicial system and a total inability of our supreme court, under the existing form of the constitution, to transact the mass of business brought before it. The constitution limits the number of judges of the supreme court to four, requires two to constitute a quorum to do business and directs that the supreme court shall be held once a year in each county of the state. * * * It has become so loaded down with

business as to render it impossible for the judges, with all their known industry and talent, to dispose of it in a manner satisfactory to themselves or with due regard to the rights of parties."

In an address delivered before the Ohio house of representatives, January 16, 1847, Clement L. Valandigham said on the same theme:

"Now the number of counties—and they are rapidly increasing—is eighty-two; so that these four judges are required to hold no less than eighty-two separate courts in each and every year, flying for that purpose over the whole vast territory of Ohio. * * * Only think, sir, of your supreme court, the last depository of the tremendous powers and possibilities of the judiciary, turned into a flying express and running a tilt against the wind on a trial of speed; today at Cleveland on the lake, hanging a man by the neck till he is dead; tomorrow in Cincinnati consigning some hapless wretch to the ignominy and the horrors of the penitentiary, or ejecting an unlucky suitor in that great city from a homestead worth millions, on which he had spent the most valuable part of a lifetime."

While governors and judges and legislators were advocating a constitutional convention to revise our judicial system, the people, as we shall soon see, had other reforms for which they wished to make provision in the fundamental law of the state.

PROGRESSIVES AND CONSERVATIVES FOR A NEW CONSTITUTION IN 1849

The agitation in favor of a new constitution at last became somewhat general. The people had ceased to venerate the old constitution and now began to lay upon it the burden of their misfortunes. Heavy taxes, the "insolence of office and the law's delay" were charged to this source. Like a party long in power, the constitution was held responsible. It is not known that a blighting frost late in springtime or a battering hailstorm in midsummer, or a withering drought in August would have been charged to the dear old constitution, but without exaggerating it may be said that the afflictions of the people, with little regard to their character, were traced to that instrument. In all seriousness, many of its provisions had outlived their usefulness and the time was ripe for a change.

Early in January, 1849, while a bill to submit to the people the proposition of holding a constitutional convention was under consideration in the state senate, after having passed the house, Governor Bebb, in his annual message to the legislature, urged the proposed submission because he believed that all officers, legislative, judicial and executive, should be elected directly by the people; that biennial instead of annual sessions of the general assembly would at less expense better subserve the interests of the state; that there should be some limitation of the power to incur state debts; that the judicial system could be materially improved.

The bill was discussed at some length in the senate, the assertion being emphatically made by its opponents, and apparently without contradiction, that the people were not asking, by petition or otherwise, for a chance to vote on holding a constitutional convention. The opposition to the bill came from the Whigs, though a number of them voted for it, and it failed to receive two-thirds of the votes of the senate. On March 23, 1849, another bill making similar provision was passed through both houses by the required vote, and the campaign for a new constitution was transferred to the final arbiters—the electors of the state.

Attitude of Citizens.

A constiutional convention and its antecedent preliminaries call into more or less prominence three classes of citizens:

1. Those who wish to revise the constitution because they wish to revise it.
2. The reformers, the progressives.
3. The conservatives, the reactionaries, the "standpatters."

We are tempted to add a fourth—those who keep in the middle of the road and, with discriminating judgment and eye on the weather vane, move cautiously toward the attainment of the "practical," the "possible" and the—"probable." While these are not conspicuous in their compromising and circumspect progress toward the goal, they always conclude their labors with the "majority."

The first class, those for whom the mere process of changing the constitution, in itself ,per se, as the youthful professor, proud of his Latin, would put it, while not the most numerous, is still familiar to all. Debating clubs, literary societies and bodies of higher pretensions usually have written constitutions, and poor indeed is that organization which does not have at least one member with an ever-burning desire to "revise or amend the constitution." We have seen him in action. The date and place of meeting, the objects of the organiza-

tion, the qualifications for membership—in fact, every part of the constitution becomes a fruitful source of revision and amendment. And what a wealth of abstruse and complex parliamentary detail he evolves in the accomplishment of his mission. Sometimes the contagion of his pertinacity extends to the membership and precipitates confusion and discord, but usually that serious contingency does not arise and the industrious member beguiles the lingering hours that might otherwise be devoted simply to the objects of the association. Down the vista of more than sixty years it is still possible to discern the patriots who loved and advocated revision for its own dear sake.

And there were progressives and reformers, even so far back as the forties. Like the lawyers, they favored revision of the judicial system, but they did not propose to stop there. The list of changes demanded by a modest member of this class, who signed himself "Progress," in the Kalida Venture, is sufficiently specific and varied to be interesting. The communication in its introductory suggestions is so applicable to present conditions and the list of proposed changes such a complete summary of things then in the minds of the people, that the communication is presented here, practically without change:

"The act of deciding what shall be the fundamental law of the state is the highest which men can be called upon to perform, and in proportion to its importance and gravity ought to be the candor and calmness with which it is performed. Proposed amendments should not be capricious; nor should they be degraded into mere questions of partisan strife. Constitutions are the barriers against undefined and unlimited power, and should declare the guarantees of the rights of the individuals who reside within their jurisdiction. All parties and all persons are therefore equally interested in them and have an equal right to demand that a constitution shall secure the greatest good to the whole number.

Program of a Progressive in 1849.

"I will not at this time argue the propriety or necessity of amending the existing constitution of Ohio. For my present purpose I will take it for granted that it is both proper and necessary to make amendments, and I will suggest for the consideration of the electors amendments to secure the following objects:

"1. To vindicate the dignity of the state, it ought to be declared that the southeastern boundary is the middle of the channel of the Ohio river and that this state has jurisdiction of its citizens while upon any part of the waters of the Ohio river, when the same is the boundary.

"2. All qualifications of voters, except residence and sufficient age, ought to be abolished.

"3. All electors ought to be capable of holding any office in the state without any other qualification than that they are electors.

"4. Senators ought to be elected by large districts, and the number increased to forty-eight.

"5. Every county ought to have one representative for a specified number of persons in the county, who should be elected entirely by single districts of one representative each.

"6. Contested elections of senators and representatives ought to be decided by the courts before the members take their seats.

"7. The appointing power ought to be entirely taken away from the legislature.

"8. A lieutenant governor ought to be elected, and also a commissioner of common schools.

"9. All officers, legislative, executive and judicial, except subordinate clerks, ought to be elected directly by electors.

"10. The legislature ought not to meet in session oftener than every second year; the session should commence on the first Monday in January and the length of the session ought to be limited.

"11. After the compensation of any officer is once ascertained, the legislature ought to have no power to reduce it. The compensation of the executive and judicial officers ought to be increased and fixed by the constitution. For county offices, fees ought to be abolished and annual compensation substituted.

"12. The legislature ought to be prohibited from passing special acts of incorporation. So far as associations of persons are convenient, they ought

to exist under general laws. Such laws ought not to be permitted to be construed to be contracts to any greater degree than any other law, and should at all times be open to alteration, amendment or repeal. The only effect of acts of incorporation should be to associate persons under a common name and to aggregate capital or means, and should confer no powers or privileges which a natural person of equal means does not enjoy or possess.

"13. The legislature ought to be forbidden to make the state a stockholder with individuals and private companies; and the object and the extent to which the state may be indebted ought to be declared.

"14. The imposition of taxes should be required to be at the same uniform rate upon the valuation of all property in the jurisdiction within which taxes are levied.

"15. Offenses against the good reputation of persons ought to be punished by imprisonment, and the party injured ought not to be entitled to compensation in money.

"16. All punishment by fine ought to be abolished as being unequal and inadequate.

"17. Devises of land by will ought to be abolished and the descent and distribution thereof defined by law.

"18. Special quantities of land ought to be exempted from sales on execution; and married women ought to have assured to them their property.

"19. The legal equality of married women with men ought to be recognized and established.

"20. The laws of this state ought to be reduced to a systematic code; the process, pleading and practice of courts simplified; the distinction between law and equity jurisprudence abolished; and the common law of England abrogated.

"21. The judiciary ought to be remodeled by abolishing the court of common pleas and substituting in its place county courts, consisting of one judge only, with original jurisdiction in all cases above justices of the peace; and for the settlement of estates of deceased persons and the appointment of guardians, there ought to be a separate court in each county, consisting of one judge.

"22. There ought to be a district court, consisting of one judge, with jurisdiction by certiorari; and writs of error, of course, to bring the judgments of the county courts before him, in cases in which the county courts have original jurisdiction.

"23. The supreme court ought to consist of a chief justice and all the district judges, to be held once a year in Columbus, with jurisdiction by way of writ of error only to be allowed by the chief justice in cases in which the county courts had original jurisdiction, and in which the district courts overruled the judgment of the county court.

"24. In civil suits juries ought to be had in cases in which either party demanded one, or in which the courts should order one.

"25. No religious belief and no adjuration of Almighty God ought to be required of witnesses.

"26. The state should refund to the counties all expenses incurred in prosecutions for crimes and misdemeanors.

"27. Power of local legislation ought to be conferred upon county commissioners and their number, by some just ratio, increased."

This bill of particulars, lengthy as it is, does not express all of the demands of the reformers. Even as early as 1849 there came from different parts of the state a demand for the election of United States senators by direct vote of the people. The National Era and the New York Tribune were quoted in favor of this reform, but as the "Oregon Plan" had not been devised at that early date and the forthcoming convention would not have power to abrogate the provisions of the constitution of the United States, this reform was presented as one of academic interest rather than of practical importance.

The enfranchisement of women found occasional advocates, but not in sufficient numbers to raise it to the dignity of an issue.

A reform in which there was a deep and widespread interest, but in regard to which very little was said by the secular press of the state, was the regulation of the liquor traffic. A large and influential class of citizens were determined that the sale of intoxicants as a beverage should be virtually outlawed

in the constitution. Their liberal opponents were somewhat apprehensive but quiet and undemonstrative in their defensive campaign. We shall see later how the contest between the "wets" and the "drys" went into the constitutional convention—and how it came out.

Pessimists in Those Days.

As the agitation for a convention progressed, there was in the preliminary discussions a considerable manifestation of that pessimism which regards everything under the existing system as headed for autocracy, destruction and the eternal "bow wows." Hear ye one of the oracles:

> "It is an old and true saying that power is ever stealing from the many to the few; so long has this been the case under our present constitution that but little power remains with the many to steal away. An opportunity now offers for the people to right these things and rescue the rights and powers that have been filched away from them, and they will do it or we are mistaken."

In this there is a very modern flavor.

"Conservatives" and "reactionaries" there were in goodly number and not a few of them looked forward hopefully to a constitutional convention as a refuge from what today would the called the "socialistic" schemes of the "mob" and the general assembly. Hear the introductory words of the appeal from a representative of this class:

> "A revision of the present constitution with a view to its alteration, so as to entirely prohibit the legislature from hereafter engaging in schemes of internal improvement cannot be too strenuously urged upon the people. * * * No one at this present day will for a moment contend that the legislature ever had an express constitutional authority for entering into such a scheme. * * * If it is necessary and proper that improvements such as canals and railroads should be made in the state, individual capital and enterprise will make them if they are profitable."

The real "standpatters" who were opposed to any change were comparatively few and quiet, but on the battle line they did a little bush-whacking from the underbrush.

The stormy petrel of the agitation for a new constitution was Hon. Samuel Medary, editor of the Ohio Statesman and an aggressive Democratic leader of the state. Not only did he advocate the convention through the columns of his paper, but on May 5, 1849, he commenced the publication of The New Constitution, a weekly of octavo size, devoted entirely to the cause. He evidently was a revisionist for the sake of revision, a progressive and a conservative—in short, he would go far to agree with any man who favored a new constitution. For that he even laid aside for the time being the discussion of partisan issues and became the virtual leader of the newspaper propaganda throughout the state in favor of the convention. No other man, perhaps, did so much to arouse popular interest and insure the triumph of his cause at the polls. In the last issue of The New Constitution, October 5, 1849, the result of the vote on holding a constitutional convention is announced as follows:

For the convention	145,698
Against the convention	51,161
Total vote cast	235,370

It will, therefore, be seen that 38,511 electors who went to the polls did not vote at all on this question. The proposition carried by a majority of 56,026. We shall now see how the delegates were elected and how they set about making the new constitution.

CONSTITUTIONAL CONVENTION OF 1850-1851

The people seem to have approached the constitutional convention of 1850-51 in a mood on the whole rather optimistic. There were some misgivings and an occasional gloomy prophecy, but serene confidence and sanguine anticipation were clearly dominant. Those who had prominently interested themselves in the movement for a new constitution hoped to see included in it a goodly portion at least of their favorite reforms. The general feeling was fairly expressed by Hon. Samuel Medary:

"The people now have it in their power to change the state constitution so as to make it conform to the progressive spirit of the age, and by so doing to simplify their state government and make it cost less to the taxpayer, and at the same time better protect the citizen in his rights."

We have here set forth the lure that is often dangled before the citizen to lead him into the mazy field of experiment and change. There is a wonderfully attractive power in the things that are cheap and free. In the press of the day much space was given to assurances that a new constitution was to bring great relief to the taxpayer. In the very nature of things such assurance must be in large measure illusive. Take for instance the reform of the judiciary, the demand for which led to the submission of the question of holding the constitutional convention, and without which submission would undoubtedly have been deferred for at least twenty years. The courts were so overcrowded that it was impossible for them to perform the services for which they were created. A system must be devised that would provide more judges of higher average ability, and such a system must inevitably cost the taxpayers more money. Of course such a change should bring compensation in the form of better service and more prompt and satisfactory administration of justice.

Taxes are a tribute paid to civilization. If we would enjoy its comforts and conveniences—to say nothing of its luxuries—we must "pay the price." The only state of society which escapes that condition is the one found in Ohio before the white man came. The Indians were not troubled with the tax problem. The people have a right to demand that taxes be economically expended in efficient and necessary service, and this service brings such ample compensation in the greater ability to pay taxes that its burdens are not felt—that they do not exist. The new constitution was to provide a form of government adequate for a progressive and expanding population with growing needs. This could not be made to cost less to the taxpayers. Taxes could not be avoided, but provision could be made for their more equitable collection and distribution.

Others held forth the hope that provision might be made for relieving the state of its $18,000,000 indebtedness incurred in building up its system of internal improvements and paying an annual interest of over $1,000,000. The finances of the state were in bad condition, partly as a result of the advent of railroads that were taking the place of the canals and curtailing their receipts, but chiefly because all unnoticed at the heart of our system of internal improvements the canker of the spoils system fed and fattened at the expense of the people. Some of the reformers, without recognizing the cause, were still insistent in their demands for relief, and not without warrant hoped that the new constitution might inaugurate a better order in the finances of the state.

Selection and Character of Delegates.

On February 23, 1850, an act to call a convention passed the general assembly. It provided for the election on the first Monday in April of 108 delegates, one from each representative district, to meet in convention "to revise, amend or change the constitution of the state." The convention was to meet in Columbus on the first Monday in May, 1850, and have power to adjourn to such other place or places in the state as its members might deem proper.

The time for the selection of delegates was comparatively brief, only a little more than a month. The press of the state seemed to be alive to the importance of the election and urged that "only the best men be put forward as candidates," that they must not be picked at random to frame the fundamental law of the state.

But party spirit ran high and there were practically no independent candidates in the field. The Whigs had not been enthusiastically in favor of framing a new constitution at this time because they feared that with their waning power it would not be possible to elect a majority of the delegates to the convention. On the other hand, the Democrats were sanguine that they would triumph at the polls and that theirs was the great opportunity to write and submit a new constitution for the people of Ohio. In the contest for delegates, the Democrats as the original friends of revision had a decided advantage over their opponents who had been lukewarm or secretly opposed to calling a convention. In the year 1850, the first Monday of April was the first day of April, but so far as known this contingency did not adversely affect the results of the election.

Writers have bestowed high praise on the body of men chosen to frame our second constitution. Perhaps at this late day it would be vain and unpatriotic to question this judgment, and something on the character and personality of the delegates of all our conventions is reserved for future presentation. It is very safe to say, however, that the electors of the different districts did not, without exception, send to this convention their men best equipped for framing the constitution. In the county of Franklin, including then as it does at present, the capital city of the state, Samuel Medary, the chief advocate of the convention, a man of experience in public affairs, and especially well informed on all questions likely to arise before that body, was defeated by his Whig opponent, John Graham, a local surveyor and former sheriff, who evidently knew little about the constitution and was not stimulated to interest in it by contact with his fellow delegates. He never addressed the convention on any subject. As we learn from the ample "Debates and Proceedings," he seems to have risen to his feet before that body but four times; once to send to the clerk's desk a proposition from a Columbus citizen to rent a hall to the convention, once to offer a petition signed by a few women of Franklin county opposing the legalization of the liquor traffic, and twice to offer resolutions evidently prepared by others. His opinions on questions up for consideration are found only in the aye and nay votes recorded in the proceedings. Medary, outside of the convention, had more to do than Graham in the convention in shaping the constitution. Hon. Henry Stanberry, of Columbus, who represented a district made up of Delaware county and a portion of Franklin, however, gave the capital city fitting eminence in the convention.

Of the 108 delegates chosen to this convention, sixty-four were Democrats, forty-one Whigs, and three Free-Soilers. An even dozen were or afterward became prominent. A large majority were what is sometimes vaguely designated as "representative"; that is, they were representative in character and ability of the average citizenship of their districts and responsive to the wishes of a majority of their constituents. Of a small and harmless minority so much could not be said, and some of its members would probably not have recognized

a state constitution had it come walking up the principal street of the capital city.

Meeting of Delegates; Organization.

The delegates met in the State House in Columbus, May 6, 1850. A roll-call of the members showed all present except four. The first motion offered designated the officers of the convention as president, secretary, assistant secretary, sergeant-at-arms and doorkeeper.

The point of order was made that the convention could not proceed to business until the members had taken the oath of office. Then, strange to relate, the question was raised whether or not the delegates could consistently take the oath to support the constitution of Ohio when they had met "to construct a new constitution embracing no part of the old one," as a prominent member put it. Another delegate drew attention to the fact that they were only to prepare a constitution to be submitted to the people for ratification, and that until this was done they must live and act under the old constitution, by virtue of which alone they were authorized to assemble in convention; but this did not satisfy the members and, remarkable and unwarranted as their action was, they actually decided that they would not on entering upon the duties of their office, take oath to support the constitution of Ohio. Judge Peter Hitchcock, delegate from Geauga county, administered the oath to members in these words:

"You solemnly swear that you will support the constitution of the United States and that you will honestly and faithfully to the State of Ohio discharge your duties as members of this convention?"

Judge Hitchcock, who certainly knew that the action of the convention was not very creditable to the spirit and intelligence of its members, so shaped the oath that it approached as nearly as possible to pledging support to the constitution of Ohio.

The election of president of the convention resulted in the choice of William Medill, of Fairfield county, who was elected by a vote of sixty. His leading competitor, Joseph Vance, received thirty-eight votes. W. H. Gill was elected secretary. The previous general assembly had reserved to itself the right to choose the reporter and had named for that important post J. W. Smith.

The Democratic majority, in spite of protestations to the contrary, was held steadily in line when questions arose affecting party interests, the distribution of honors, and other forms of patronage. At the outset they were willing and even eager to lay aside partisanship, after they had gathered in the offices and given Samuel Medary a somewhat luscious plum in the form of a contract to publish the proceedings of the convention. In fairness it must be said that if the Whigs had been in control they would, perhaps, not have been less selfish and partisan.

On the day following the election of officers and while the appetite for patronage was still keen, Mr. Sawyer, an active and somewhat loquacious member from Auglaize county, rose and remarking that a public printer ought to be appointed, declared that he "had no disposition to disguise the matter and would frankly state that he presumed from the complexion of the convention that Samuel Medary would be chosen printer" and proceeded to make a motion to that effect.

Partisan Activity.

The contest over the printing of the convention consumed much time, the dominant party under the leadership of Mr. Sawyer evidently guarding very closely the interests of Mr. Medary. The price to be allowed provoked much discussion. Contracts had been made for the publication of the proceedings and

debates of the convention in the Ohio Statesman and the Ohio State Journal. The milk of the cocoanut for Mr. Medary seemed to arise from the fact that he had only to lift his type out of the columns of the Statesman and run off the proceedings and debates in book form to get full pay a second time for his work. "If Mr. Medary, as is true," declared Mr. Sawyer, "has type set up for the publication of his paper and if he can tomorrow use the type for the publication in book form, it is not his fault."

The suggestion of some one that the printing be given to the lowest responsible bidder aroused the righteous indignation of Mr. Farr, a Medary supporter from Huron county. He said:

"This matter of bidding for work of this kind is exceedingly contemptible, and when a man makes such a proposition to me, as a printer, I will have nothing to do with him."

The result, of course, was that satisfactory provision was made for Mr. Medary. Having, in the characteristic way of the times, disposed of this inviting piece of patronage, the convention devoted itself to the serious consideration of the work appropriately before it. On May 14, the president announced the following standing committees:

1. On privileges and elections.
2. On legislative department.
3. On executive department.
4. On judicial department.
5. On apportionment.
6. On the elective franchise.
7. On corporations, other than corporations for banking.
8. On banking and currency.
9. On public debts and public works.
10. On future amendments to the constitution.
11. On education.
12. On militia.
13. On finance and taxation.
14. On preamble and bill of rights.
15. On public institutions of the state.
16. On jurisprudence.
17. On miscellaneous subjects and propositions.
18. On accounts.

In these committees, of course, most of the work was performed. Their reports were discussed in the convention and the substance of these discussions come down to us in two substantial volumes. In the limited scope of this inadequate survey, not even a brief review of the debates on the more important subjects can be given. A glance over the proceedings reveals the progressives and conservatives in battle array, and often their arguments read like a transcript from the latest issue of the Congressional Record in which similar principles are discussed. In eulogizing the judicial system of England, a prominent conservative of the convention said:

"The fame of her learned and incorruptible judges has filled the world. And why is it? They have feared no earthly power, but have been left to poise the scales of justice with a firm and steady hand. 'Let justice be done though the heavens should fall' has been the motto of her judges. They have been able to dispense justice under the influence of a conscious security against popular excitement and royal displeasure."

Continuing, the same speaker said:

"I believe that the people of the state of all parties desire an independent judiciary and that they regard such a system as immeasurably more important than that the will of a popular assembly in a particular locality or neighborhood,

expressed on a given day under excitement, should be carried into the jury box or be delivered from the bench in the form of a solemn judicial determination."

And here is another excerpt from the reply of a progressive of that day:

"I said it was much to ask our opponents even to vote for the election of judges by the people, but was too much to expect them to go the entire figure on the subject. I said that the election of judges by the people was asked for by the people for the purpose of bringing within their control more fully that department of our government, which alone of all departments of American government, had not felt the chastening and reforming hand of American public opinion."

In a stirring speech on the abolition of capital punishment, one of the opponents of the proposition made much of the well-worn argument that those in favor of a change cared more for the criminal than for his victim.

CONSTITUTIONAL CONVENTION OF 1850-1851—THE LIQUOR PROBLEM

Conservative citizens, who are sometimes disturbed at the reckless and withering anathemas hurled at corporate wealth, should console themselves with the thought that there is nothing new in this manifestation of hostility and righteous indignation. In the convention that framed our present constitution, the orators bravely assailed the citadel of "privilege" in language as trenchant as any hurled from the hustings today. Here is a sample, under date of June 3, 1850:

"Corporations, sir, are destructive to equality and hostile to free institutions and their existence should not be tolerated in a republican government. They confer privileges and benefits on the few which are not enjoyed by the many. Every special act of incorporation is a grant of monopoly—a charter of privileges to a few individuals, which are not conferred upon the community at large. Such legislation is, consequently, utterly repugnant to the great republic doctrine of equal rights—a doctrine that lies at the basis of the free institutions of the country.

"Sir, the people of Ohio have felt the blighting, withering and contaminating effects of these 'ulcers upon the body politic'—corporations, through a long series of years; and I believe there is now a deliberately formed and well settled public opinion among the masses in this state which requires of us as the representatives of the people to say to the general assembly, in the organic law of this commonwealth, 'No more special acts of incorporations —no more special legislation.' A distinguished American statesman has said, and experience has proven the truth of the declaration, that 'in this country corporations are like so many citadels, in which the enemies of republican government entrench and protect themselves, and from which they carry on their warfare against the institutions of freedom and the liberties of the people.' Sir, I propose, by a prohibitory provision in the constitution, to storm these 'citadels,' and to rout the occupants from their entrenchment and their stronghold, so that they may no longer be thus enabled to 'carry on their warfare against the institutions of freedom and the liberties of the people.'"

Of course we have applied new words and phrases. We now speak of the "tyranny of privilege," "predatory wealth," and the "tentacles of the monster octopus," but "blighting, withering, contaminating effects of these 'ulcers upon the body politic'" was doubtless a satisfactory avenue for the release of the pent-up and righteous wrath of this "friend of the people."

From another delegate of the convention we get an insight into the cause of this early hostility toward corporations in Ohio and an illuminating exposition of the devious ways of legislatures sixty years ago:

Log-rolling in the Legislature.

"It is well known that special charters are always 'got through' our legislature at will, and it must be evident that it will always be so, in the absence of a constitutional provision. When was there ever an instance within the recollection of the oldest legislator on this floor, where a single special act of incorporation was defeated? It is but too generally known that these special acts are 'got through' by a log-rolling system as it is called, the friends of one bill voting for the bills of others in consideration of their aid when the final vote is taken upon their own. These acts will always pass a legislative body the dignity and 'purity' of your general assembly to the contrary notwithstanding. Any association of capitalists who ask for a right of way through any part of the country will always get it, and ten thousand remonstrances might be sent

up in vain. A single member could carry it through the legislature, if each other member had a bill of his own for similar acts of incorporation."

The people who are wont continually to despair of the legislatures they elect, may gather comfort from the evidence here presented that these bodies are not much worse now than in the long ago.

Of course, in 1850, as now, there were staunch defenders of existing institutions, including the chartered corporations. Among these was the delegate from Carroll county. Here is what he has to say:

"It has been said that there is no disposition among the people of the state to embark in the works of internal improvement, hence there is necessity for such action by the legislature as would invite capitalists to invest their wealth among us. It is said that this is an age of progress. Well, to some extent that is true. The practice of the early pioneers of the country was to invite capital into the state by the establishment and encouragement of associations of wealthy individuals; and, sir, the state improved under that healthy system—that wise and far-sighted policy. I am unwilling to take away from the people the opportunity and privilege of having railroad or turnpike roads or any other improvements, if they find men willing to build them. If it is the purpose of this convention to prevent the people from having these improvements made, they could not, in my judgment, adopt a more effectual plan than to support the section now under consideration. I am for leaving it to the people and the legislature to settle these matters by themselves. Let the people, by their representatives, grant special charters and put them upon such balances and checks as they may think proper. This convention should not attempt to prevent the people from inviting capitalists into the state, for to discourage the investment among us of eastern capital is to strike directly at the policy which has made the state what it is—third in wealth and greatness in the republic."

No Special Acts for Corporations.

The lengthy and interesting discussions on corporations were called forth in large measure by the proposition to include in the constitution the following sections:

"The general assembly shall pass no special act conferring corporate powers.

"Corporations may be formed under general laws; but all such laws may from time to time be repealed."

The constitution of 1803 authorized the creation of corporations by special act. Under this provision abuses had grown up that led the people generally to favor a change. A delegate set forth some of the reasons as follows:

"The quesion is not what power should be given to associations of men, but it is a question of methods—in what manner should charters be obtained under which they would act—whether it should be by special charter or the exercise of their rights under some general law. That seems to be the question. And why, I would ask, should the legislature be harrassed year after year by these applications for charters to associate companies? Three-fourths of the legislation for several years has been responsive to the petitions of men asking to be associated for certain specific purposes with certain powers granted to them. Why not do all this under a general, instead of a special law? We would thus get rid of this harrassing of the legislature—it would hasten the transaction of legislative business, and so much time would not be spent by the legislature in determining these matters. It would be in the interest of economy and prudence to restrict the legislature in granting these acts of incorporation."

Simeon Nash, legal writer and delegate from Gallia county, opposed the proposed change on the ground that under general laws corporations would multiply in the state. He said in part:

"Are gentlemen prepared to pass general laws for the organization of railroads whenever and wherever individuals may see fit? By such legislation the

state would divest itself of all authority over the location of these improvements, and railroad corporations would start up like mushrooms all over the state just as emulation between the different routes or the caprice and cupidity of the individuals might suggest. Such a course would jeopardize the income of all our public works, works which have cost the people millions and would thus recklessly be exposed to destruction at the cravings of private cupidity. Is it right thus to surrender to individuals the power to thread our state with railroads, regardless of the public interests and wants? Are you prepared to authorize the construction of railroads along the lines of the canals?"

In this connection it is well to remember that our great manufacturing interests have developed since the adoption of our present constitution. In other lines the demands for corporate power have multiplied. It was fortunate that our constitution anticipated the needs of the future and prevented the continued extension of special chartered privileges to corporations. It was folly to expect, however, that the limitations prescribed would prove a panacea for existing ills or eliminate "log-rolling" and the activity of corporation agents about the halls of the general assembly. Regulation by general laws has led to united action on the part of corporate interests, and it would be idle to expect this to be less effective than separate effort; but uniform laws have promoted the general welfare by maintaining between the corporations themselves a degree of equality not otherwise possible.

License Question.

The temperance question, although apparently but little discussed in the contest for delegates, loomed up prominently in the convention. Petitions were presented with thousands of signatures. Speeches on the subject occupy many pages of the second volume of the "Debates," but action was involved in parliamentary tangles and is at times difficult to trace, while the indexes are so inadequate that one must labor through many pages of the discussions and then feel that he has probably missed some important item in the record.

The resolution embracing this subject was presented at all stages in practically the form in which it finally became a part of the constitution:

"No license to traffic in intoxicating liquors shall hereafter be granted in this state; but the general assembly may by law provide against the evils resulting therefrom."

It is practically impossible to learn the views of the many delegates, especially of the very large number that did not participate in the discussion. Charles Reemelin, an able delegate from Hamilton county, who seems to have opposed the resoluion at all stages, but who nevertheless generally stated matters of fact with care, described the situation as follows:

"The committee which drafted this report have reported it manifestly with the design to catch votes. The gentleman from Logan and the gentleman from Trumbull know that the temperance men in this body are as such in a miserable minority and that they could not obtain, directly and fairly, more than forty votes upon this floor. Many votes were, however, obtained for this report with the direct understanding that it proposed nothing more than to repeal all laws licensing the traffic and that hereafter it should be free. I myself know of as many as five members who voted for it with this understanding; whilst at the same time, my friend from Logan and my friend from Guernsey voted for it for the purpose of preparing the way for future legislation on this subject and for declaring the selling of liquor to be a crime."

The argument in favor of the resolution is here briefly presented by Benjamin Stanton, delegate from Logan county:

"If two boys upon the streets raffle for a penny, they are liable to a fine; not on account of the enormity of the transaction, but because of its tendency to evil. So you fine an unlicensed person who sells a gill of whisky and, for the

same reason. But traffic in ardent spirits is the one indictable offense which has been authorized and sanctioned by statute. It is the only offense against public morals which particular individuals have been authorized to commit for a consideration. This is a monstrosity which ought not to be tolerated for a moment. The effect of it is to interpose a shield between the licensed rum seller and the efforts of the temperance reformer who is seeking to fix infamy and ignomy upon it. The friends of temperance ask that this may be taken away and that they may have an open field and a fair fight."

The argument on the other side is thus presented by Henry Stanberry, delegate from Franklin and Delaware counties:

"Gentlemen say that a license is a legal sanction, that it dignifies and gives respectability to the business of retailing and that the friends of the temperance reform are constantly met and confronted with the legal sanction of the evil which they are combating. That is putting the matter in a very plausible light. If indeed the evil only existed by reason of the license—if the license authorized that which would otherwise be unlawful, I could see the force of the objection. Hereafter when the license system is abolished, the business of retailing is to be a lawful business. It is still to have the sanction of law, a universal sanction instead of a partial and regulative sanction.

"And then, sir, it is said under this free system the business will lose some of its respectability. No doubt of that. Under a system of free competition with no restraint, no local supervision, the business will, in a measure, fall into hands to which it would never be intrusted even under the worst administration of the license system."

Wavering on Anti-License Clause.

The votes on the resolution were close and there was much wavering and fence climbing. On February 24, 1851, it passed the convention by a vote of forty-five to thirty-nine and was ordered to be included as a part of the constitution. On the day following a wobbling member who had voted with the majority announced that he had received new light, that he was now sure that if this resolution were included the constitution would be defeated by the people at the polls. To avert that calamity he would move a reconsideration of the vote by which the resolution had been adopted. The motion was carried through the aid of new arrivals and one or two additional brethren who followed the author of the motion over the fence. The vote stood forty-seven to forty-five in favor of reconsideration. The resolution was then defeated, yeas, forty-three, nays, forty-nine, a complete reversal of the previous vote. This sudden change of front called forth from a delegate the following observation:

"We are pursuing in this matter about the usual course—at least the course the papers of the state say is the usual and every-day order of business here. They say that there is no telling when this convention will get through its business, for what it does one day it regularly undoes the next."

This subject afterward came up as Section 18 in the schedule and was adopted as a part of the constitution in the following form:

"At the time when the votes of the electors shall be taken for the adoption or rejection of this constitution the additional section in the words following, to-wit: 'No license to traffic in intoxicating liquors shall hereafter be granted in this state; but the general assembly may by law provide against the evils resulting therefrom,' shall be separately submitted to the electors for adoption or rejection in the form following, to-wit: A separate ballot may be given by every elector and deposited in a separate box. Upon the ballots given for said separate amendment shall be written, or partly written and partly printed, the words, 'license to sell intoxicating liquors, yes;' and upon the ballots given against said amendment in like manner the words, 'license to sell intoxicating liquors, no.' If at the said election a majority of all the votes given for and against said amendments shall contain the words, 'license to sell intoxicating liquors, no,' then the said amendment shall be a separate section of Article IV of the constitution."

The question of license was therefore submitted as a separate proposition.

One is tempted to present a summary of the interesting discussions on taxation, especially the arguments on the taxation of church property, but space will not permit.

Biennial sessions of the general assembly and the veto power were considered at length. The latter was not conferred upon the governor.

In the convention a number of able lawyers led in the reconstruction of the judicial system of the state, the chief reform originally demanded in the new constitution.

The dominant party in the convention gerrymandered the state in framing the legislative districts, and this led some of the minority to vote against adopting the constitution in the convention.

On July 9, 1850, the convention adjourned, because of the cholera epidemic, and met in Cincinnati, December 2, where it continued its labors until March 10, 1851.

The new constitution was submitted to the people at special election June 17, 1851, and was adopted by a vote of 125,564 to 109,276, a majority of 16,288. The proposition to prohibit the license of the sale of intoxicating liquors carried by a vote of 113,237 to 104,255, a majority of 8,982.

If the license proposition had not been submitted, it is more than probable, for very obvious reasons, that the constitution would have been voted down.

CONSTITUTION OF 1851 DIFFICULT TO AMEND — CONSTITUTIONAL CONVENTION OF 1873-1874

In spite of the demonstrated defects and inadequacy of the constitution of 1802, the new constitution, embracing the popular reforms of the day, was not carried by an overwhelming majority. This attests a fact that has been evident throughout our state history; when it comes to the adoption of a state constitution the people of Ohio have been conservative. And we might truly add that when amendments have been submitted the electors have been indifferent as well as conservative.

Attitude of Parties.

The attitude of the Whigs and Democrats toward the constitution of 1851 is fairly set forth in the editorials of the leading organs of the two parties just before its adoption. On the day before the special election, June 16, 1851, the Ohio State Journal thus presented the Whig view:

"For the last three months the merits and demerits of that instrument (the constitution) have been discussed through the columns of the Journal. The friends as well as the foes of it have had free use of our columns. We have regarded the subject, not in a partisan or sectarian view, but have endeavored to place it on higher ground. If, in this view, its defects have appeared more prominent than its merits, it is the misfortune of those who have exercised their skill in its formation.

"That there are merits in the new constitution has been admitted from the beginning. The election of officers by the people, the facility for adapting the judiciary to the increased wants of the state, the clause for future amendments are all proper and fit to be made. The other side of the case we have from time to time presented. The violation of the faith of the state about taxing state bonds; the clauses that will limit, if not destroy, all internal improvements; the infamous apportionment and the rejection of the single district system—all make a formidable list of objections that can hardly fail to have great weight with intelligent minds.

"Let every citizen go to the polls and there deposit the deliberate convictions of his judgment, unswayed by partisan feeling."

The Ohio Statesman, in the following editorial, published about the same time, sets forth the Democratic attitude:

"The new constitution is emphatically a liberal, progressive document. It secures the rule of popular concerns from irresponsible and selfish interferences. It strikes a death blow at the bloated arrogance of wealth and places the means of prosperity in the hands of labor. It puts the hand of taxation into the pockets of all men and persons alike. No man can huddle his hundreds of thousands into the coffers of a corporation and go on augmenting his fortune without paying equally with the poor man for the support of the government under whose protection he enjoys his property and grows rich. It sets bounds to existing corporations and imposes barriers to the creation of all other new ones than those which the people from time to time decree. Where the old constitution is vague, this is explicit and plain; where the old is wanting, this is complete; where the old was capable of perversion to the detriment of popular welfare, this bristles with popular protection. This is emphatically the 'People's Constitution.'"

To the changes brought about by the new constitution, the people gradually adjusted themselves and it steadily grew in popular favor. It added to the strength of the Democratic party, and Joseph Medill, the president of the convention, was elected governor by a substantial majority. The apportionment, as already noted, was made in the interest of that party, but it was destined soon

to lose the advantage of its gerrymander. New issues, national in their scope, arose above the political horizon. The cloud, at first small and insignificant, grew as it swept on, bearing in its breast bolts of destruction for the Whig party and for its opponent the scourge of defeat, humiliation and long years of exile.

Early Attempts at Amendment.

The section providing for the amendment of the constitution required that proposed changes should receive a three-fifths affirmative vote of both branches of the general assembly. In order to become a part of the constitution, an amendment must receive a majority of all the votes cast at such election. Of course, it might receive a majority of all the votes cast thereon, but not a majority of the total votes cast at the election. The votes on the amendments submitted in 1857 will illustrate the practical working of this section of the constitution.

Vote on amendments to the constitution submitted at the October election, 1857:

Total number of votes cast	332,126
Affirmative vote necessary to carry any amendment	166,064
Proposition No. 1, annual sessions, Yes	151,212
Annual sessions, No	31,899
Majority	119,312
Proposition No. 2, change of district courts, Yes	156,646
Change of district courts, No	30,039
Majority	126,607
Proposition No. 3, bank and individual taxation, equal, Yes	160,470
Bank and individual taxation, equal, No	20,600
Majority	139,861
Proposition No. 4, corporations, Yes	123,229
Proposition No. 4, corporations, No	35,973
Majority	87,258
Proposition No. 5, single districts, Yes	147,260
Proposition No. 5, single districts, No	32,657
Majority	114,603

It will thus be seen that while each proposition received a majority of the votes cast thereon, no one received a constitutional majority of all the votes cast at the election. All of these amendments were defeated by the electors who refrained from voting on them. Some of them doubtless did this purposely, but most of them were negligent and indifferent. Of course, it was the purpose of those who framed this section to make it somewhat difficult to amend the constitution. The theory was that before a change should be made there ought to be such a popular demand for it that it would secure the support of a majority of all the votes cast at the regular election. There has since been a growing conviction that this provision concedes too much to the ignorance and indifference of the electorate.

Preliminaries of Third Constitutional Convention.

However this may be, it is certain that the practical inability to adopt amendments led the people in 1871 to vote for a convention "to revise, alter or amend" the constitution. The two decades from 1850 to 1870 had witnessed great changes in Ohio. The population had grown from 1,980,329 to 2,665,280, but in a much greater ratio had increased our corporate and industrial development. Vast aggregations of wealth had been invested in commerce and manu-

facturing. Railroad, telegraph and express companies were performing a great service for the people, reaping rich returns and gradually acquiring political influence of a dangerous character. Immediately after the close of the civil war the enterprising spirit of the people turned to peaceful activities, great manufacturing establishments sprang up, and Ohio exemplified the declaration of a president of the United States that the "fires of protective industry were kindled at the funeral pyre of slavery." These changes magnified old problems of state government and brought forth new ones. Failure to adopt amendments to meet these new conditions led to the agitation for a constitutional convention, and when the question was submitted to the people in 1871 the proposition prevailed by the following vote:

Whole number of votes cast at election	459,990
Necessary to authorize the calling of convention	229,996
For the convention	264,970
Against the convention	104,231

It would be difficult to enumerate all the considerations that led the people to vote in favor of a convention. It was generally conceded that the judicial system again needed revision. In a public address, General Thomas Ewing declared that the supreme court was four years in arrears with its work and that with all diligence on the part of the judges the law's delays were destined to become more vexatious and expensive. There was also a general feeling that there should be a more effective regulation of corporations. The eternal warfare between the temperance people and the liquor interests figured pretty largely in the vote for the convention. The anti-license advocates had won by a small majority when the constitution of 1851 was adopted. The friends of the license system were now eager for another test of strength and felt very sanguine that they would be able to vote their proposition into the constitution. Other questions of minor interest helped to bring about the result. Among these were the veto power of the governor, limitation of indebtedness for cities, the salary system for county officers and proportional representation on the supreme bench.

The election of delegates resulted in the choice of men of high average ability, a number of whom were, or afterward became, prominent. Of the entire number, 105, sixty-one were lawyers, a fact that was seized upon and used with telling effect by the opponents of the constitution when it was submitted to popular vote.

The convention opened with a more intelligent discussion of the oath to be taken by the members than that noted at the outset of the convention of 1850-51. The oath of office was administered by Chief Justice White, of the supreme court of the state, in the usual form, including, of course, the pledge to support the then existing constitution of Ohio.

A majority of the delegates were Republicans, but the organization of the convention was effected without partisan controversy, and Morrison R. Waite, of Toledo, was elected president on the fourth ballot. Before the convention concluded its labors the president resigned to accept the position of chief justice of the supreme court of the United States. The vacancy thus occasioned was filled January 28, 1874, by the election, on the fourth ballot, of Rufus King, of Cincinnati.

There was some controversy over the letting of printing contracts, but it did not, as in the previous convention, turn on the politics of the printer. The policy of competitive bidding, which was openly opposed by the dominant party in the convention of 1850-51, seems to have grown quite popular in two decades. There was no objection whatever to it, and the controversy arose over accepting the bid of a Cleveland firm, but slightly lower than that of a

Columbus establishment. It was argued, and with much show of reason, that the superior convenience arising from having the work done by a local printer would more than balance the difference in price. But the convention, by a substantial majority, kept its faith and voted to give the contract for publishing the "debates" to W. S. Robinson and Company, of Cleveland, the lowest responsible bidder.

On May 20, the fifth day of the convention, the chair announced the following standing committees:

1. On privileges and elections.
2. On preamble and bill of rights.
3. On the legislative department.
4. On the executive department.
5. On the judicial department.
6. On the elective franchise.
7. On education.
8. On pubilc institutions.
9. On public debt and public works.
10. On the militia.
11. On accounts and expenditures.
12. On county and township organizations.
13. On apportionment and representation.
14. On revenue and taxation.
15. On municipal corporations.
16. On corporations other than municipal.
17. On miscellaneous.
18. On amendments.
19. On the schedule.
20. On traffic in intoxicating liquors.

The "Official report of the proceedings and debates of the third constitutional convention of Ohio," published in two volumes, the second in three parts, contains a very complete and detailed record of all that was proposed and done. The volumes aggregate over 4,800 pages. One wishes that the work might have been more thoroughly indexed, for while it contains much that is now of little practical value, it also includes a great fund of able discussions of fundamental principles and problems of state government that are of current interest. To some of the most important of these, brief reference will be made in a succeeding chapter.

CONSTITUTIONAL CONVENTION OF 1873-1874

Taxation—Equal Suffrage—License.

The subject of woman's suffrage, which scarcely received consideration in the constitutional convention of 1850-1851, was presented at length in the convention in session twenty-three years later. Alvin C. Voris, delegate from Summit county, appeared as leading champion of the cause. His eloquent and extended address is full of interest. Among other things he said:

"Whatever tends to elevate woman tends to better society. The practical recognition of her rights and powers, as a human being, as a citizen, tends to elevate her. The conclusion is obvious. No wise man will think of depriving society of her potentialities for its melioration.

The exercise of the elective franchise has elevated every class of persons properly exercising it. Like wealth, power, intelligence and all the civilizing agencies, it has made society better, and the individual exercising it a more exalted being, capable of higher accomplishments. * * *

"The necessity of reform is the conviction of the hour. The abuses of the privileges of the elector are fearfully undermining our social system. May not the self-restraint of woman be an important element in this reform. * * *

"Her truly endearing qualities are inherent in her very nature and would continue to be hers, just as man's continue to be his, though she should have a larger field of duty and privilege open to her, which will be exalted as she is exalted or lessened as she sunk in the scale of being.

"Woman will vote. The decree has gone forth, backed by the growing reason, sense of justice, and generous intelligence of the age. Many of you will live to see and bless the day that enfranchised the most lovable and virtuous half of our people."

Opposition to Woman Suffrage.

To the speech of Mr. Voris, Thomas W. Powell, the venerable delegate from Delaware county, made a carefully prepared and able reply. Those interested in this subject will find both addresses well worth reading in full. Volney G. Dorsey, delegate from Miami county, thus summed up his argument against the proposed reform:

"Christianity, built upon the family relation, has brought woman to this elevated, this glorious position, in which she is at once a blessing to herself and to all around her. Remove her from this, and I care not what you add to her, her moral influence is gone, and gone forever. The ballot cannot compensate for the loss of the influence of the home; official position can never repay her for the loss of that greater kingdom which must be thrown away when the sanctity of the family relation is invaded by the duties and responsibilities of political station."

There was much interesting discussion of the proposition to elect judges of the supreme court by proportional suffrage. The proposed plan permitted any elector to vote for only three of the five judges to be chosen. General Thomas Ewing, who favored this, summed up the objection to the plan and his answer as follows:

"The charge against this method that it increases the power of the (political) convention in the choice of judges, has been presented in its most plausible form, as follows. 'The two great parties will each nominate three of the five judges of the supreme court. Two of each three, so nominated, will surely be elected, and only one of six nominees defeated. Hence, either party may nominate three very bad men with a certainty of electing two.' But, I answer, the majority in a tate will not lose a judgship by bad nominations if they can help it, any more than under the present system; and a party, when in the minority,

will seek then as now, to recover their power by good nominations. There will be exactly the same rivalry of parties and efforts to make good nominations and elect the nominees."

Another delegate favored the system of proportional voting because it would secure to the minority its rights. On this theme he said:

"What are these rights? First and above all others, the right of a voice in the government, not an absolutely controlling voice, but a voice that can be heard in counsel and that may be effective, so far as the power of just opinion can become so. This is all that is asked, and with nothing less should a free people be satisfied."

Revenue and Taxation.

The Committee on Revenue and Taxation made its report March 12, 1874. There were many opinions, some of them at wide variance, on Section 3, which was originally reported as follows:

"Laws shall be passed taxing by equitable and uniform rules, all real and personal property, so that all property shall bear an equal share of the burdens of taxation according to its true value in money, but providing against double taxation."

In explanation of this section, the chairman of the committee offered the following:

"It is evident that the clause 'equitable and uniform rules' was intended and does confer on the general assembly a larger legislative discretion in the adjustment of the general system of taxation than it possessed when but a single rule, and that uniform and inflexible, limited its action. But the question arose in our consultation, and in my judgment is still unsettled, as to how far such legislative discretion can co-exist with and be exercised in the faith of a subsequent clause in the same section, which requires all property on its appraised value in money, to share equally the burdens of taxation. * * * Whatever may be our differences of opinion, this section clearly means, to some extent, a departure from the past policy of the state as to taxation. * * * The state of Pennsylvania, in framing her constitution, adopted the idea probably intended to be embraced substantially in this amendment to the section of our old constitution. It is that by implication a classification of the property of the state might be obtained."

Another member of the convention offered a more concise and definite explanation:

"I am aware that we shall be asked what is meant in this section by the adjectives 'uniform' and 'equitable' as applied to the rules by which the real and personal property of the state is to be taxed. In ordinary use, the word 'uniform' has a more definite meaning than 'equitable'; but my own construction of them, as we use them in this conection, is that the equality shall apply to the proper classification of the different subjects and classes of property sought to be taxed, and the uniformity shall obtain in the equality of taxation, throughout the state, of all the property of the same class— variable as to class, but uniform as to the rate of tax on each class. That is my definition, and if it means less than that I shall oppose it."

As will be seen, the contest was between those who believed in the classification of property for the purposes of taxation and their opponents who favored the iron-clad uniform rule. The section submitted was a compromise of a not very satisfactory character. It was amended until it finally took the following still more unsatisfactory form:

"Laws shall be passed taxing, by uniform rate, all real and personal property according to its value in money, to be ascertained by such rules of appraisement as may be prescribed by the General Assembly, so that all property shall bear an equal proportion of the burdens of taxation, provided that the deduction of debts from credits may be authorized."

This somewhate indefinite and contradictory provision left matters substantially as they were under the inflexibile uniform rule of the old constitution. Nothing practical resulted from months of discussion on this subject.

The License Question.

Much interest attaches to the action of the convention on the regulation of the traffic in intoxicating liquors. The friends of the license system, as already noted, waged an active campaign in favor of holding the convention. They believed that they were strong enough to outvote their opponents and looked forward with confident anticipation to the opportunity to exhibit their strength. The discussions in the convention turned chiefly on the form in which the question should be submitted to a vote. It was early agreed that it should be submitted, not as a part of the constitution, but as a separate and distinct proposition.

The constitution of 1851, as we have seen, prohibited the licensing of the sale of intoxicating liquors. In criticising this provision, George Hoadley, a delegate from Hamilton county, expressed his regret that he had, in 1851, voted against license. "I have been a penitent ever since," said he, "and shall be to the end of my days. One of those mistakes was in inaugurating free trade in whiskey, by forbidding the license system, thus preventing the state from realizing that large tax upon the traffic which would be, in some measure, a compensation for the evils and mischief that it works."

The delegates from the large cities favored the license system. On the whole the sentiment of the convention seems to have run pretty strongly in the same direction. As in the convention of 1850-51, however, there were among the members those who wished to occupy, as nearly as possible, neutral ground on this question. Many insisted that the license system would close a large proportion of the saloons in the state. "I tell you," said a prominent delegate, "tnat under a well restricted license system, backed up by the public sentiment of the state, you can close nineteen-twentieths of all the saloons with all their attendant evils, a thing you can never effect under a mere effervescence of public opinion."

Among those who presented the opposite view was Anson Pease, delegate from Stark county, who declared:

"If three thousand rum and gin shop keepers of this city (Cincinnati) supposed that they were to be thrown out of employment, that their occupation would be gone if this license system were adopted, do you think that they would be clamoring before you for a license? It is understood by them and their friends that when you go to the legislature the question will be, who shall give the cheapest license, two dollars, three dollars, or some other trifling sum, which shall give them an opportunity to sell whiskey to be drunk where sold. That is just what they desire, to make the system respectable. There are many pious people in the trade, and they do not want their business to be made contraband and disreputable; they do not wish to expose themselves to prosecution, and they desire to make it just as popular for them as it is possible to make it. I am not in favor of any such thing."

On this subject Samuel F. Hunt, delegate from Hamilton county, said:

"Sumptuary legislation has never resulted in any permanent good. The constitution of 1851 prohibits the granting of license by the general assembly, and yet intemperance has greatly increased in our midst. We have liberty without license. We should have license with liberty. * * *

"This is a question which will agitate itself; like Banquo's ghost, it will not down at our bidding. It is now agitating the state from its center to its circumference, and will do so as long as the state has an organization and an existence. Meet the question fairly; meet it, not with a license which at the same time prohibits, but meet it with a license which, at the same time, limits and restrains or restricts. Let the direct question be license or prohibiion, and let those to whom we must ultimately appeal for the ratification or rejection

of our work say, in an independent proposition, whether or not it shall be a part of the organic law."

Charles W. Rowland, another delegate from Hamilton county, occupied the unique position of hailing from a large city and opposing the principle of license. On this subject he said:

"Let no man dream that we can fight this battle out here, so that it will no longer disturb the politics of the state. We can only determine the form which the struggle shall assume, the real battle must be fought out among the people; and it is one of those questions which will not down at the bidding of time-servers and politicians. Gentleman have, upon this floor, attempted to institute a comparison of this with other evils. Why is it in this convention, confessing itself an evil and clamoring for treatment? It juts out, like a frowning promontory beyond and above all evils that curse society. This behemoth of iniquity 'upheaves his vastness,' not only in this convention, but before the civilized world; and everywhere demands toleration, if not the sanction of the law. I shall never vote to give it."

The whole subject was submitted to the people n the following alternative propositions:

For License.

"License to traffic in spirituous, vinous or malt liquors, under such regulations and limitations, as shall be prescribed by law, may be granted; but this section shall not prevent the general assembly from passing laws to restrict such traffic, and to compensate injuries resulting therefrom."

Against License.

"No license to traffic in intoxicating liquors shall be granted; but the general assembly may, by law, restrain or prohibit such traffic, or provide against evils resulting therefrom."

If either of these alternative propositions, "for license" or "against license," should be adopted, provision was made that it should become a section of Article XVI of the constitution.

We shall see how the submision of this question entered into the contest for the adoption of the contitution and how it materially affected the result.

PROPOSED CONSTITUTION OF 1874—ITS DEFEAT

The sessions of the convention were protracted to considerable length, the entire period covering 188 working days. As previously explained, the members met in Columbus and after a recess convened in Cincinnati, where they concluded their labors May 15, 1874. The constitution which they framed was not adopted, and inasmuch as its provisions, so far as they differed from the constitution of 1851, indicate the changes that the delegates deemed proper at that time, the more important are given here in the following summary:

Proposed Changes.

1. State elections were to be held biennially on the Tuesday succeeding the first Monday in November.

2. Senators and representatives must reside in their respective districts during their term of service; no person interested in any contract with or claim against the state should be eligible to a seat in the general assembly.

3. Joint resolutions, before passing, must receive the votes of a majority of the members elected to each house.

4. The governor was given the veto power. A bill could be passed over his veto by an affirmative vote of three-fifths of the members of each house.

5. On demand of any member of the general assembly, a vote could be had on any separate item of an appropriation bill.

6. All claims, not authorized by pre-existing law, must be paid through a separate appropriation bill; that is, they must not be included with regularly authorized appropriations.

7. The chief justice of the supreme court was to preside in case of the impeachment of the governor.

8. Regular sessions of the general assembly were required to commence on the first Wednesday of January. Ratable deductions from salaries of members were to be made for unnecessary absence.

9. In case of the removal of both governor and lieutenant governor, by death or other cause, the general assembly was to fill the vacancy.

10. The lieutenant governor could vote in case of an equal division of the senate.

11. The following important changes were made in the judicial system of the state:

"The term of office of supreme judges was extended to ten years, instead of five, as under the old constitution, and their salary was fixed at not less than $5,000 per annum each. The judges were to be elected by the restricted plan of minority suffrage, at the first election occurring under the new constitution, under which plan no elector could vote for more than three of the five judges to be chosen.

"In consequence of the accumulation of business on the docket of the supreme court, a commission was to be appointed to consist of the supreme judges in office at the time of the first election of judges under the new constitution, to dispose of all business then on the docket, which should not be, by arrangement, transferred to the new court. The judgments of this commission were to be in force the same as the decisions of the supreme court."

Judges of courts of record were required to report to the supreme court "defects and omissions in the laws," and the supreme court was to make a similar report to the governor on or before the first day of December of each year.

12. The word "white" was stricken from the constitution of 1851, where it specified the qualifications of electors or persons performing militia duty,

13. Women possessing the qualifications of electors as to age, citizenship and residence, were made eligible to any office under the school laws, except that of state commissioner of common schools.

14. An asylum for the incurable insane, an intermediate penitentiary and a reform school for boys were added to the list of permanent institutions of the state.

15. A superintendent of public works was to take the place of the board of public works.

16. The fee system was to be abolished and county officers were to receive fixed salaries.

17. The general assembly was authorized to divide municipal corporations into six classes.

18. Assessment on taxable property of any corporation, in any year, was limited to 10 per cent, and an aggregate of 50 per cent in any ten years.

19. The indebtedness of municipal corporations was limited to 5 per cent of the taxable value of the property within their limits, or 10 per cent on a referendum vote.

20. An officer or agent of a railroad company was restricted in his financial interest in such company. The consolidation of parallel competing lines of railroads was prohibited.

21. Foreign corporations, carrying on the business of transporting persons or property, or of telegraphing, mining, manufacturing or insurance in the state, were required to maintain an office therein, where legal proceedings could be instituted against them.

22. The "watering" of corporation stock was prohibited.

23. Rairoads were required to charge the same rate for "long and short haul."

24. Provision was made for the taxation of all property at uniform rates, including income from investments.

25. A dog tax was authorized.

26. Each county was to have at least one representative in the general assembly.

27. The system of cumulative voting was applied to Hamilton and Cuyahoga counties.

28. The general assembly was required to legislate for the protection of miners.

29. Provision was made for the appointment of a commission to revise and rearrange the statutes of the state.

30. The questions of minority representation, railroad aid and license were submitted as separate propositions.

The leading daily papers of the state, with a few exceptions, favored the adoption of the constitution of 1874. These included the Democratic **Ohio Statesman** and the Republican **Ohio State Journal.** The latter entered the contest sincerely but with no great degree of enthusiasm. It pointed out that it had proven impossible to amend the existing constitution because of the indifference of voters; that it was only through the adoption of the new constitution that changes could be effected in the fundamental law of the state.

Views of Ewing and Campbell.

General Thomas Ewing, of Lancaster, on August 15, 1874, delivered in Columbus, an address favoring the adoption of the constitution, which, as a delegate, he had helped to frame. A very satisfactory report of the address was published in the **Journal** of August 17. To this the editor pointed as a most

satisfactory argument and guide to voters. The General believed that the proposed constitution should be adopted for the following reasons:

1. It provided for the reorganization of the judiciary, a reform imperatively demanded by the crowded condition of the courts. This would necessitate a permanent increase in salaries of from $50,000 to $60,000 a year, and a temporary increase of from $20,000 to $25,000 a year. This increase was to be more than offset by the prompt and efficient administration of the law.
2. It abolished the free pass system.
3. It gave members of the general assembly the right to demand a separate vote on every item of an appropriation bill.
4. It gave the governor the veto power.
5. It provided for biennial general elections.
6. It substituted fixed salaries for the fee system in county offices. This, it was claimed, would save annually from $150,000 to $200,000.
7. It placed salutary restrictions on corporations, whose rapidly growing power demanded additional regulation by the state.
8. It authorized the legislature to pass laws to prevent the watering of corporation stock.

By its opponents the proposed constitiution was called the "lawyers' constitution" and the "new Napoleonic constitution." Among the city dailies that opposed its adoption were the **Cincinnati Enquirer** and the **Columbus Evening Dispatch.** The latter, in an editorial under date of August 15, 1874, expresses its opposition as follows:

"Voters of Ohio: The question is presented to you squarely; will you sell out what remains of republican institutions, under the present constitution, to subserve the purposes and to promote the interests of one single class of trained, of educated adventurers so cheaply as they propose? Will you voluntarily divest yourselves of the right of suffrage for ten years, probably forever, so far as you are individually concerned, for the consideration of a license provision in the constitution to traffic in whiskey; a license that may prove a base fraud upon the greatest number of those who are made to believe that it is to be to their pecuniary interest to secure the so-called license? * * * Can you afford to exchange your present government, defective though it may be, for an oligarchy of students of the effete despotisms of the old world, which already stink in the nostrils of those old tumbling lynasties, and for the poor consideration of a promise, which those fellows make you, of a license to trade in whiskey? See to it next Tuesday that you are not swindled."

The same paper, on August 17, published the following summary of the objections of L. D. Campbell, vice-president of the constitutional convention, to the new constitution:

"1. It violates the great principle of equal rights and exact justice by applying the system of cumulative voting for two counties of the state—a system by which three votes of a minority have a political power equal to four of a majority, degrading a portion of the people.
"2. It is anti-republican in this, that by extending the term of service of some officers to ten years, and dispensing with annual state elections, it removes farther from the people their power to dismiss unfaithful and unworthy servants.
"3. It unnecessarily increases the salaries of offices that can be enjoyed only by a very small and non-productive class of the people.
"4. It increases the number of judges, complicates the judicial system that ought to be simplified, and renders judicial proceedings more tardy and expensive.
"5. It prohibits the courts of common pleas from exercising jurisdiction in habeas corpus.
"6. It secures benefits to the legal profession alone, at the expense of the tax-payer and to the disadvantage of all other classes of people.
"7. It will increase the expenses of the state government not less than $2,500,000 in the first ten years.
"8. It confers on the governor the veto power, by which he may defeat legislation, without which the state has prospered more than seventy years, and which has not been desired by the people.
"9. In no event will it satisfactorily settle the important question of the

liquor trade; but will leave it open for vexatious and unprofitable controversies among the people hereafter.

"10. It may give authority to consume the private property of men, women and children, by taxation, without their consent, to aid railroad companies and promote private speculation.

"11. It contains no beneficial provisions which may not at any time be secured by an act of the legislature.

"12. As a whole the old constitution is much better than the new one."

Other Sources of Opposition.

In addition to the reasons for opposition set forth in the foregoing statements, there must be taken into consideration a condition of unrest and distrust remarkably prevalent throughout the country, and especially in Ohio, at the time this constitution was submitted for approval. The political revolution that placed William Allen in the gubernatorial chair was still sweeping through the state. Papers, without much regard to party, were denouncing the "salary grab" of the Grant administration. The people were in no mood to reason on the proposed increase in the salaries of judges of the supreme court, and the extension of the term of office suggested to the suspicious citizen only a "salary grab" of greater length. The fact that the new constitution was largely the work of lawyers led the perturbed and unreasoning to regard it as the hiding place of all manner of iniquities. The political patent medicine man was abroad in the land and the people were swallowing his nostrums with gleeful gullibility.

The license proposition, especially, helped to seal the doom of the constitution. The earnest temperance workers of the state voted against it, of course; and then, to make assurance doubly sure, most of them also voted against the constitution. A contributing case of minor importance was found in the long-drawn-out sessions of the convention. The people were tired of the "Con-Con," as it was termed by way of humorous abbreviation, long before it had finished its work.

Partisan politics did not figure much in the final result. Prominent members of both parties spoke earnestly in its favor, but neither party, as an organization, cared to assume responsibility for the new constitution.

It was submitted to the electors of the state August 18, 1874, with the following result:

Constitution, Yes	102,885
Constitution, No	250,169
Minority representation, Yes	73,615
Minority representation, No	259,415
Railroad aid, Yes	45,416
Railroad aid, No	296,658
License, Yes	172,252
License, No	179,538

AMENDMENT OF THE CONSTITUTION

The defeat of the constitution of 1873-74 left the supreme court in a rather unfortunate position. As already stated, it was far in arrears with its work. The aid offered by the new constitution now seemed to be indefinitely postponed. Up to this time no amendment had been adopted to the constitution of 1851, and the prospect for relief from that source was anything but encouraging. The need was so apparent, however, that the legislature once more submitted an amendment to the constitution. This provided for a supreme court commission of five members, appointed by the governor for three years, "to dispose of such part of the business then on the dockets of the supreme court as shall, by arrangement between said commission and said court, be transmitted to such commission." This commission was to have "like jurisdiction and power in respect to such business as are invested in said court." The general assembly was also authorized to create once every ten years a similar commission for a similar purpose, to serve two years.

The two leading political parties united in an effort to pass this amendment. Practically all of the newspapers of the state favored it and the speakers of both partes, in the stirring campaign of 1875, paused long enough in their partisan appeals to urge all voters to support it. Success crowned the efforts of the friends of the amendment, which now appears as Section 22 (21), Article IV, of our constitution. Following is the vote by which it was adopted October 12, 1875:

Whole number of votes cast	595,248
Necessary to carry	297,625
For the amendment	339,076
Against the amendment	98,561

Nor was our constitution amended only once, "except through the devious device of the now repealed Longworth law," as editorially declared by a prominent newspaper of the state. Article IV, on the judiciary, was materially and extensively modified by amendment October 9, 1883. This amendment abolished district courts, established circuit courts and authorized the general assembly to increase the number of judges of the supreme court, declare their salaries, and fix the term of office for any period not les than five years. The number of circuit judges, their salaries and terms of office, were likewise to be fixed by law. This amendment, materially changing sections 1, 2 and 6 of Article IV, and repealing sections 5 and 11 of the same article, while not adopted under the Longworth law, was made a part of the constitution by methods not less "devious," as we shall presently see.

Judiciary Amendment of 1883.

The amendment was but little discussed in the campaign of 1883. Popular interest centered in two other amendments, relating to the prohibition and regulation of the liquor traffic, and yet the amendment relating to the judiciary carried easily, while those relating to the liquor traffic failed.

The following extract from an editorial of the Ohio State Journal explains why the judiciary amendment had such "plain sailing":

"The constitutional amendment proposing a change in the state judiciary has had pretty plain sailing thus far, and arrangements having been made whereby 'Judicial Amendment, Yes,' appears on the ticket of both parties, it will

doubtless be adopted. The State Bar Association, after a discussion of the proposed measure, decided to adopt it and advocate it, and lawyers generally have pronounced in favor of it, as far as they have taken any position at all in regard to it.

This reveals the plan to catch the indifferent and uninformed voter at an election before the present modified Australian system was adopted. Instead of writing on the ballot

Judicial amendment, yes.
Judicial amendment, no.

and permitting the voter to express his preference by striking out one of the two, by mutual arrangement the political parties placed on each ballot

Judicial amendment, yes.

For obvious reasons this plan was about as effective as that authorized by the Longworth act. The scheme was exposed and denounced by the venerable Judge R. P. Ranney in a letter to the Cleveland Leader a few days before the election, in which among other things he said:

"I do not now propose to enter upon an examination of it (the amendment), and content myself with simply saying, I can see no good in it. It undertakes to create an entirely new court, with an unlimited number of judges, and a large increase of office holders, with a corresponding increase in the expenses of the judicial system.

"But worse than all that, it completely destroys the present independent position of the judges of the supreme court, as well as the court to be created. Among the most effectual means for securing this, a fixed term and compensation have always been regarded as indispensable, while in the scheme proposed everything is set afloat and the legislature is at liberty to make the terms of the supreme judges five years or twenty, the circuit judges one year or twenty, as they see fit, or the exigencies of political parties seem to require. But leaving all this aside, I certainly should not have felt myself called upon to more than deposit my vote against the scheme, if an equal opportunity were afforded those who favor or oppose it to express their wishes at the ballot box in accordance with the legislative resolution submitting it, which expressly requires the affirmative or negative to be placed upon the ballot as the elector may desire to vote.

"I am now, however, informed (whether correctly or not I cannot say) that an understanding between the committees of the several political parties exists, by which affirmation only is to be printed upon the ballots to be used at the election. If such a conspiracy really exists, and is attempted to be carried out, I have no hesitation in declaring it a base fraud and imposition upon the electors and an attempt to change the constitution by a species of juggling without the free consent of the majority of them. * * *

"If I need any apology for calling the attention of electors to the subject, I hope it will be found in the fact that I am one of the very few surviving members of the convention that framed the constitution and was chairman of the committee on future amendments."

The revelation of the clever arrangement of the political leaders did not affect the result of the election, and the judicial amendment easily prevailed, the vote standing:

Total vote cast	731,310
Necessary to carry	365,656
For the amendment	400,919
Against the amendment	144,335

In spite of Judge Ranney's criticism of this amendment and his denunciation of the scheme by which it was adopted, it must be admitted that time has proven the modification of the constitution thus effected wise and satisfactory. There has been no disposition on the part of the legislature to abuse the authority conferred upon it and our judicial system has been made so

flexible that it may be adjusted to meet new demands without calling a convention to revise the constitution. As we have seen, the conventions of 1850-51 and 1873-74 were brought about chiefly for the purpose of revising our judicial system. At the present time there is practically no demand for a change in this department.

Amendment Changing Date of Election.

The constitution was still further amended October 13, 1885, changing the time of electing county and state officers from the second Tuesday of October to the first Tuesday after the first Monday of November, and authorizing the general assembly to determine the time and manner of holding township elections. These amendments were popular, especially those changing the time of the fall election to correspond with the presidential election. They were all submitted in the same manner as the judiciary amendment of 1883, and by mutual agreement of political parties only the affirmative votes were printed on the ballots. These amendments carried by substantial majorities, as will be seen by the following:

Total vote cast	733,967
Necessary to carry	366,984
Election of senators and representatives in November.	
Yes	538,858
No	53,177
Election of state officers in November.	
Yes	536,273
No	53,223
Election of county officers in November.	
Yes	534,669
No	53,629
Election of township officers.	
Yes	469,113
No	59,929

Amendments Under the Longworth Act.

In 1902 the Longworth act was passed. It virtually gave legal form and sanction to the practice of 1883 and 1885 as applied to the judicial and election amendments. It provided that political parties might "take action in favor of or against the adoption of such constitutional amendments to be submitted at the next succeeding annual election and certify such action to the secretary of state in the manner provided for certifying nomination for state offices, whereupon said action shall be printed upon the regular ballot at said election as a part of the party ticket of said party." Briefly stated, it authorized a political party to include as part of its ticket an affirmative or a negative vote on a constitutional amendment, and every elector who put his cross under the party emblem voted accordingly.

Under this law amendments that had the support of the two political parties (and in one instance that had the support of one political party) readily passed and were incorporated in the constitution. They are as follows:

Election of 1903.

Total vote cast	877,203
Necessary to carry	438,602
Governor's veto:	
Yes	458,681
No	338,317
County representation:	
Yes	757,505
No	26,497
Stockholders' single liability:	
Yes	751,783
No	30,988

Election of 1905.

Total vote cast	961,505
Necessary to carry	480,753
Bond exemption:	
Yes	655,508
No	139,062
Biennial elections:	
Yes	702,699
No	90,762

With the exception of the next to the last in the foregoing list, all of these amendments have proven satisfactory. There has been and there is no disposition to return to the old order. There is, however, considerable latent opposition to the veto amendment, and unwise exercise of the power it confers would undoubtedly start a movement for its repeal.

But the exception above noted and the possibility that party leaders might shape the constitution to their will and to the detriment of the people, aroused opposition to the Longworth act and led to is repeal in 1908. The repealing act provides that constitutional amendments shall be designated in the first column of the official ballot and that on the line below each shall be printed the word "yes" and on the next line shall be printed the word "no." As it requires a majority of all the votes cast at the election to carry an amendment, for reasons already explained, the indifferent and uninformed voter who fails to notice the amendment counts against its adoption as certainly as if he had voted "no."

No constitutional amendment has been adopted since the repeal of the Longworth act. The principle of this act, however, has been invoked in the law which provides for submitting to the electors of the state the question, "Shall there be a convention to revise, alter or amend the constitution?" This act went into effect May 11, 1910.

While, of course, it is possible that neither of the two leading political parties will desire to be held responsible for the constitution submitted by the forthcoming convention, both of them went on record in favor of holding it and included "constitutional convention, yes," as part of their respective tickets in the fall election of 1910. While it is very doubtful whether the proposition would have carried if placed in a separate column of the ballot, with the endorsemen of the two parties as above described, the result was as follows:

Total vote	932,262
For the convention	693,263
Against the convention	67,718

MODIFICATION OF CONSTITUTION BY AMENDMENT AND INDEPENDENT PROPOSITION

A State Constitution may be modified by the adoption of separate independent propositions or by amendment.

With the constitution of 1851, as we have seen, was submitted the proposition to license the sale of intoxicating liquors. This was done in order that the adoption of the constitution itself might not be endangered by the contest over the liquor problem. As previously stated, the submission of the proposition in separate form helped to insure the adoption of the constitution. A few words of explanation may be necessary. Had a provision authorizing the license system been included in the constitution itself, the temperance people would have voted against its adoption. A provision forbidding license would have arrayed against it the liberal or liquor element. When the license proposition was submitted separately, the temperance people naturally favored the new constitution, opposed license, and voted accordingly. They wished the new constitution to prevail for, if it should fail, they would continue under the old constitution and the license system. Their purpose was to carry the new constitution and vote into it as a separate proposition the anti-license clause. The liberal element believed that they could carry license, and while they were, perhaps, not so enthusiastc as their opponents in support of the constitution, their faith that they woud be able to vote down the anti-license proposition influenced them generally not to oppose the adoption of the constitution.

In short, the temperance people felt that they had everythng to gain and nothing to lose in the adoption of the new constitution and voted for its adoption. The liberals did not realize that the result would adversely affect their interests and did not antagonize adoption. At that time the lines between the wets and drys were not so sharply drawn as in later years. This combination of conditions materially aided the friends of the constitution and contributed thousands of votes to its adoption.

Effect of Independent Propositions.

When the constitution of 1874 was submitted, conditions were different. With it were referred to the people three independent propositions "minority representation," "railroad aid," and "license." The first two wer overwhelmingly defeated, and the last by a majority of only 7,286, in a total vote of 351,790. The constitution itself went down by a vote of more than two to one. The contest was most vigorously waged over the license question. The friends of the system, the liberal or liquor element, as they were called, had everything to gain and nothing to lose by voting not only for the license proposition but for the constitution as well. In fact, the latter received its most substantial support rom that source. On the other hand, opponents of the license system, who had everything to lose and nothing to gain in the adoption of the proposed constitution, arrayed themseves against it in united battle line, and the majorities that they rolled up in the rural districts against the two objects of their wrath were paralyzing. It should be added that opposition to "minority representation" and "railroad aid," the former of which was not understood and the latter very unpopular, helped, in lesser degree, to make sure the defeat of the constitution.

Reason and experience clearly show that the fate of a proposed consti-

tution is dependent, in no small degree, upon the independent propositions submitted with it. A provision that will endanger the adoption of the constitution, when included as a part of it, will usually have, to a marked degree, the same influence if submitted with it as an independent proposition.

In Ohio, provision from the beginning has been made for the modification of the constitution by amendment. Prior to 1851, this could be effected only in a constitutional convention. Since the adoption of the present constitution amendments may be proposed by three-fifths of each branch of the general assembly, but before becoming a part of the constitution they must be submitted to the people at the next regular election for state senators and representatives, and must receive the votes of a majority of all the electors voting at such election. As has frequently been explained, an amendment may receive a majority of all the votes cast for and against it and still not have a majority of all the votes cast in the election at which it was submitted. This has been illustrated by the vote on the first amendments submitted after the adoption of the constitution of 1851. It may be further exemplified by the votes cast on taxation amendments in recent years:

Year.	Affirmative.	Negative.	Total Vote Cast.
1891	303,177	65,014	795,631
1893	322,422	82,281	835,604
1903	326,622	43,563	877,203
1905	655,508	139,062	961,505
1908	339,747	95,867	1,123,198

The only one of these that carried was that submitted in 1905, and it prevailed only because it had the endorsement of both of the leading political parties under the Longworth act.

Demand for Tax Reform.

When it is remembered that the demand for tax reform was, perhaps, the most powerful influence originally exerted in favor of the constitutional convention in 1912, it is readily seen that recourse is had to a constitutional convention when efforts to amend the constitution fail. After the constitution of 1874 was voted down, a number of the reforms that it embodied were, by amendment, voted into the constitution under the Longworth act and other devices that applied the same principle with like result.

The Longworth act has been repealed and there is pronounced opposition to turning over to political conventions the power to initiate and, by concerted action, virtually to adopt amendments to the constitution. There is need of a rational system of amendment that will encourage among the electors a more general and intelligent interest in the questions submitted to them for approval or rejection at the polls.

The tendency in the past has been to exalt the party name and the party leader to the exclusion of interest in almost everything else. Take, for instance, the vote on the amendment authorizing the classification of property for purposes of taxation, submitted in 1908. 1,125,198 voters were interested in the election of one of the candidates for president and governor, but only 435,614 were sufficiently concerned to cast their ballots on an amendment authorizing legislation that might affect the tax levied on every dollar's worth of property in the state.

Singular as it may seem, the difficulty experienced in adopting amendments to which there was and could be no serious opposition has not resulted in well-directed effort toward a satisfactory method of amendment. The present system, in effect, counts the ballot of the man who does not vote on the amendment, but votes for officers, as against the amendment. It has often been proposed that only the ballots of those voting on the amendment should be considered,

and that a majoirty of these should be sufficient to carry such amendment. It is urged that where voters are so indifferent as to overlook a measure submitted to them at the ballot box they should be left entirely out of consideration in determining the result. The following states recognize this principle in their constitutions, and require for the approval of amendments submitted only a majority of the votes cast thereon: Alabama, Arizona, California, Colorado, Connecticut, Florida, Georgia, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Nebraska, Nevada, New Mexico, New Jersey, New York, North Dakota, Oregon, Pennsylvania, South Dakota, Utah, Vermont, Washington, West Virginia, Wisconsin. Some of these, notably New York, North Dakota, Pennsylvania, and Vermont, require the approval of two legislatures before submtting to popular vote.

To the argument in favor of authorizing the adoption of amendments by a majority only of the votes cast thereon, the answer is made that a matter so important as changing the constitution should require an affirmative vote of a majority of all citizens casting their ballots at any general election.

In the state of California the difficulty is, in a measure, obviated by submitting amendments at a special election, but such elections, even when important measures are submitted, have not been largely attended and are still open to the objection of constitutional change by minority.

Among the reforms proposed for the new constitution, none, perhaps, are more important than those relating to the elective franchise. The greatest danger that can threaten republcan institutions is an indifferent, ignorant, or corrupt electorate. Unfortunate poltical methods have tended to encourage this. In communities where it should be least expected there have been startling revelations of indifference and corruption. Electors, in many instances, have been afflicted with civic laziness and have unblushingly acknowledged the fact by permitting themselves to be hauled, at the expense of some party leader or interest, to primaries and elections. Great sums of money are raised and expended "to get out" the vote and overcome "general apathy," which might be more properly named civic laziness. From "getting out" the vote it is an easy and natural step to "buying out" the vote with anything, from a political job to cold cash. For all this a rational remedy has been suggested in the form of a clause for the new constitution that shall make the exercise of the elective franchise a duty rather than a privilege, and impose a penalty on electors who fail to perform this duty.

Plan for Amendments.

Impressed with faith in this principle, the writer suggested a few years ago to interested parties that **voting on amendments and other measures submitted might be made the legal duty of those voting for officers at the same election.** When the repeal of the Longworth act was up for consideration, an amendment of that act embodying this principle was offered in the state senate. It is here reproduced in full from the Senate Journal of 1908:

Section 1. Whenever an amendment to the constitution is submitted to the electors for their approval or rejection, the substance of such amendment shall be briefly stated in a title that will clearly designate the same, and such statement shall be printed on a separate ballot without party designation or emblem, or any other matter thereon, except on the line below each statement the word "yes" shall be printed; on the next line below shall b printed the word "no." This ballot shall be deposited in a separate ballot box provided by the supervisors of elections and presided over by the election judges and clerks now authorized by statute. Except as otherwise provided herein, the provisions of Chapter 2, Title 14, of part first of the revised statutes of Ohio, so far as applicable, shall apply to elections herein mentioned, and the form and marking of ballots, and counting of votes on any constitutional amendment.

Sec. 2. When a number of amendments to the constitution are submitted

at the same election, they shall be printed upon the same separate ballot in the order of adoption of resolutions providing for their submission.

Sec. 3. When an amendment to the constitution is submitted to the electors of the state by the general assembly any person desiring to vote and legally entitled to vote at the election at which such constitutional amendmen is to be submitted to the electors of the state, presenting himself at the polling booth in the voting precince in which he is entitled to vote, for the purpose of voting, shall be given by the proper officer one ballot to be voted for the election of public officers and one ballot to be voted on the question of the adoption of the proposed constitutional amendment or amendments. When the elector returns from the voting booth and tenders the ballots that have been given him to the election officer, that officer shall require that both ballots shall be returned and the two ballots shall be deposited by the election officer in the ballot boxes designated for the same,—one box for the ballots for the election of officers and one box for the ballots on the constitutional amendments. In case both ballots are not returned, the election officer shall refuse to deposit the ballot returned unaccompanied by the other ballot.

Of course, the foregoing is legislation and the principle only should be embodied in the constitution. What the effect of such a provision would be is conjectural. So far as known, this principle has not been applied in any state. If it should arouse more interest in constitutional amendments and lead to the approval of those that have intrinsic merit, it might obviate the necessity of frequent constitutional conventions.

FACTS ABOUT CONSTITUTIONAL CONVENTIONS

1802.

The first constitutional convention of Ohio numbered 35 delegates. It met in Chillicothe, November 1, 1802, and adjourned November 29 of the same year. It was in actual session 25 days and cost the state $4,556.75.

1850-51.

The second constitutional convention of Ohio numbered 108 delegates. It met in Columbus May 6, 1850 and recessed July 9 of the same year; reconvened in Cincinnati December 2, 1850, and adjourned March 10, 1851. It was in actual session 135 days and cost the state $95,464.29.

1873-74.

The third constitutional convention of Ohio numbered 105 delegates. It met in Columbus May 13, 1873, and recessed August 8 of the same year; reconvened in Cincinnati, December 2, 1873, and adjourned May 15, 1874. It was in actual session 188 days and cost the state $214,792.72.

Cost of Conventions.

The expenses incident to the last two constitutional conventions are variously estimated. The figures given above are summaries from the reports of the state auditor. They do not include the cost of the special elections at which the constitutions were submitted to the people. It is estimated that such an election would now cost from $175,000 to $200,000.

MEN OF OHIO'S CONSTITUTIONAL CONVENTIONS

Burnet on Choice of Delegates to First Constitutional Convention.

The result of the choice was highly creditable to the intelligence of the inhabitants, as with but few exceptions, the most intelligent men of the counties were selected. Among the ten delegates from Hamilton county was Jeremiah Morrow, who has since filled an ample space in the estimation and confidence of the nation. Francis Dunlavy, a veteran pioneer of talents, of liberal education and of unbending integrity was chosen. John Smith and John Riley, both men of strong minds and irreproachable characters were also of the number.

Among the delegates from Jefferson county was Bezaleel Wells; from Adams, General Darlington; from Ross, General Massie, Governor Worthington and Governor Tiffin; from Trumbull, Governor Huntington; from Washington, Ephraim Cutler, Benjamin Ives Gilman, and the venerable General Rufus Putnam; all of them men of vigorous minds and high standing in the confidence of their fellow citizens.

—Notes on the Early Settlement of the Northwestern Territory.

Judge Jacob Burnet was a prominent contemporary of the men he names.

Men of the Second Constitutional Convention, 1850-51.

The president of the convention was William Medill, of Fairfield county. He was at that time one of the most prominent men in the state. He had been speaker of the house of representatives, member of congress, assistant postmaster general and commissioner of Indian affairs. Edward Tiffin, the president of the constitutional convention of 1802, became the first governor under that instrument, and William Medell, the president of the second convention, was the first governor elected under the new constitution he was so influential in framing.

As we read the roll of the convention, we meet many names of men that were great then, and some of men who became great afterward. Four of its members became judges of the supreme court in the organic law they helped to create—Rufus P. Ranney, Josiah Scott, Peter Hitchcock and J. R. Swan; ex-

Governor Vance served as a delegate from Champaign county; Charles Reemelin, the political writer and economist, came as one of the delegates from Hamilton, and his collegue was the accomplished jurist, W. S. Grosbeck; the distinguished lawyer, Henry Stanberry, afterwards attorney general of the United States, was one of Franklin county's delegates; William P. Cutler, a grandson of Rev. Manasseh Cutler, and son of Ephraim Cutler, a member of the constitutional convention of 1802, represented Washington country; Gallia county sent Simeon Nash, the law writer, and Otway Curry, the brilliant editor of the short-lived Hesperian, came from Union county.

Besides these, there were dozens of men without much public standing, but nevertheless strong in every requisite of the position, and representative in every sense of the word.

—D. J. Ryan, in A History of Ohio, 1888.

Men of the Third Constitutional Convention, 1873-74.

Pre-eminent among the men of this convention was its first president, Morrison R. Waite, who while he held this position was appointed by President Grant chief justice of the supreme court of the United States, a position that he filled for many years with eminent ability. To the vacancy occasioned by this appointment was elected Rufus King, an eminent lawyer and scholar of Cincinnati. In this convention sat Judge George Hoadley, also a leading member of the Cincinnati bar, afterward governor of Ohio, and his fellow townsman, Richard M. Bishop, subsequently elected governor of the state. From Cincinnati also came the eminent lawyer, Samuel F. Hunt and John W. Heron. Judge Williame H. West, who a short time before resigned from the supreme bench of Ohio, because of his failing eye-sight, came as delegate from Logan county. He was afterward candidate of his party for governor but was defeated by Bishop. Thomas Ewing, of distinguished ancestry and himself afterward a member of congress, represented Fairfield county. He was subsequently a candidate of his party for governor, but was defeated by Charles Foster. Among those who had been or afterward became members of congress were Martin A. Foran, of Cleveland, Henry S. Neal, of Ironton, J. M. Root, of Sandusky, Clinton A. White, of Georgetown, Cooper K. Watson, of Norwalk, Charles J. Albright, of Cambridge, John W. McCormick, of Gallipolis, John A. Smith, of Hillsboro, and Amos Townsend, of Cleveland.

In no previous convention, it is frequently declared, was the average intellectual equipment of the delegates higher.

Men of the Fourth Constitutional Convention.

Of the men of the coming constitutional convention one editor writes:

"Many complimentary things have been said of the delegates-elect to the coming constitutional convention. Among them are a number of men of recognized ability who will honor the state as well as themselves in the position to which they have been elevated. Others not widely known will doubtless prove themselves equally worthy and find in this new opportunity an avenue to distinguished service and enduring fame. The humblest delegate, by his fidelity to the public weal, may deserve well of his constituency and his state."

Another editor says:

"While writing on the subject of the constitutional convention, it is a pleasure to note that the coming assemblage is o contain some of the ablest and brainiest men of the state. They are the sort of men who, when they get together, will evolve something that will appeal to the masses, and we may confidently look forward to a great improvement in the present constitution of Ohio."

Much more has been written in the same vein and there is a disposition to look forward hopefully to the coming convention.

On the following pages are given full lists of the delegates to all the constitutional conventions of Ohio.

MEMBERS AND OFFICERS OF THE FIRST CONSTITUTIONAL CONVENTION, 1802.

Names of Delegates	County
Abbott, David	Trumbull
Abrams, Henry	Fairfield
Bair, Rudolph	Jefferson
Baldwin, Muchael	Ross
Browne, John W	Hamilton
Byrd, Charles Willing	Hamilton
Caldwell, James	Belmont
Carpenter, Emanuel	Fairfield
Cutler, Ephraim	Washington
Darlington, Joseph	Adams
Donaldson, Israel	Adams
Dunlavy, Francis	Hamilton
Gatch, Philip	Clermont
Gilman, Benjamin Ives	Washington
Goforth, William	Hamilton
Grubb, James	Ross
Humphrey, George	Jefferson
Huntington, Samuel	Trumbull
Kirker, Thomas	Adams
Kitchel, John	Hamilton
McIntire, John	Washington
Massie, Nathaniel	Ross
Milligan, John	Jefferson
Morrow, Jeremiah	Hamilton
Paul, John	Hamilton
Putnam, Rufus	Washington
Reily, John	Hamilton
Sargent, James	Clermont
Smith, John	Hamilton
Tiffin, Edward	Ross
Updegraff, Nathan	Jefferson
Wells, Bezaleel	Jefferson
Wilson, John	Hamilton
Woods, Elijah	Belmont
Worthington	Ross

MEMBERS AND OFFICERS OF THE SECOND OHIO CONSTITUTIONAL CONVENTION, 1850-51.

Hon. Wm. Medill, President. W. H. Gill, Secretary. J. V. Smith, Reporter.

Names of Delegates and Officers	From What County	Post-Office	Occupation
Andrews, S J	Cuyahoga	Cleveland	Lawyer
Archbold, Edward	Monroe	Woodsfield	Lawyer
Barbee, William	Miami	Troy	Merchant
Barnett, Joseph	Montgomery	Dayton	Farmer
Barnet, David	Preble	Camden	Miller
Bates, William S	Jefferson	Smithfield	Physician
Bennett, Alden I	Tuscarawas	Bolivar	Physician
Blair, John H	Brown	Georgetown	Farmer
Blickensderfer, Jacob	Tuscarawas	Canal Dover	Farmer
Brown, A. G	Athens	Athens	Lawyer
Brown, Van	Carroll	Carrollton	Lawyer
Cahill, Richard W	Crawford	Liberty Corners	Farmer
Case, F.	Hocking	Logan	Lawyer
Case, L.	Licking	Newark	Lawyer
Chambers, David	Muskingum	Zanesville	Farmer
*Chaney, John	Fairfield	Carroll	Lawyer and Farmer
Clark, H. D	Lorain	Elyria	Lawyer and Farmer
Collings, George	Adams	West Union	Lawyer
Cook, Friend	Portage	Atwater	Physician
Curry, Otway	Union	Marysville	Lawyer
Cutler, William P.	Washington	Constitution	Farmer
Dorsey, G. Volney	Miami	Piqua	Physician
Ewart, Thomas W	Washington	Marietta	Clerk of Court
Ewing, John	Hancock	Findlay	Merchant
Farr, Joseph M	Huron	Norwalk	Printer
Florence, Elias	Pickaway	Darbyville	Farmer
Forbes, Robert	Mahoning	Peterburg	Farmer
Gillett, H. N	Lawrence	Quakerbottom	Farmer
Graham, John	Franklin	Columbus	Surveyor
Gray, H. C	Lake	Painesville	Editor and Printer
Green, Jacob J	Defiance	Defiance	Editor
Green, John L	Ross	Chillicothe	Lawyer
Gregg, Henry H	Columbiana	New Lisbon	Printer and Druggist
Grosbeck, W. S	Hamilton	Cincinnati	Lawyer
Hamilton, C. S	Union	Marysville	Editor
Hard, D. D. T	Jackson	Reed's Mill	Merchant
Harlan, A.	Greene	Yellow Springs	Farmer
Hawkins, William	Morgan	McConnelsville	Miscellaneous
Henderson, James P	Richland	Newville	Physician
Hitchcock, Reuben	Cuyahoga	Cleveland	Lawyer
Hitchcock, Peter	Geauga	Burton	Lawyer
Holmes, G. W	Hamilton	Cincinnati	Lumber Merchant
Holt, George B	Montgomery	Dayton	Lawyer and Farmer
Hootman, John J	Ashland	Jeromeville	Blacksmith
Horton, V. B	Meigs	Pomeroy	Lawyer
Humphreyville, S.	Medina	Medina	Lawyer
Hunt, John E	Lucas	Maumee City	Merchant
Hunter, B. B	Ashtabula	Austinburgh	County Surveyor
Johnson, John	Coshocton	Coshocton	Farmer
Jones, J. Dan	Hamilton	Madisonville	Farmer
Kennon, William	Belmont	St. Clairsville	Lawyer
King, James B	Butler	Reily	Farmer
Kirkwood, S. J	Richland	Mansfield	Lawyer
Larsh, Thomas J	Preble	Eaton	Surveyor
Lawrence, William	Guernsey	Washington	Merchant
Larwill, John	Wayne	Wooster	Merchant
Leadbetter, D. P	Guernsey	Cambridge	Attorney-at-Law
Leech, Robert	Holmes	Millersburgh	Farmer
Lidey, John	Brown	Georgetown	Farmer
Loudon, James	Perry	Somerset	Farmer, etc.
Manon, H. S	Licking	Hebron	Farmer
Mason, Samson	Knox	Mt. Vernon	Lawyer
Mitchell, M. H	Clark	Springfield	Lawyer
Morehead, Samuel	Harrison	Greene	Farmer
Morris, Isaiah	Clinton	Wilmington	Farmer
McCloud, Charles	Madison	West Camden	Merchant
McCormick, J.	Adams	West Union	Lawyer
Nash, Simeon	Gallia	Gallipolis	Lawyer
Norris, S. F	Clermont	Batavia	Lawyer
Orton, C. J	Sandusky	Fremont	Editor
Otis, William S. C	Summit	Akron	Lawyer
Patterson, Thomas	Highland	Hillsboro	Farmer and Mfr.
Peck, Daniel	Belmont	St. Clairsville	Lawyer
Perkins, Jacob	Trumbull	Warren	Farmer
Quigley, Samuel	Columbiana	Calcutta	Physician

Ranney, R. P.	Trumbull	Warren	Lawyer
Reemelin, Charles	Hamilton	Dent	Farmer
Riddle, A. N.	Hamilton	Cincinnati	Surveyor
Roll, E. C.	Hamilton	Cincinnati	Lawyer
Sawyer, William	Auglaize	St. Marys	Blacksmith
Scott, Josiah	Harrison	Cadiz	Attorney-at-Law
Scott, Sabirt	Auglaize	St. Marys	Farmer
Sellers, John	Knox	Utica	Farmer
Smith, John A.	Highland	Hillsboro	Attorney-at-Law
Smith, G. J.	Warren	Lebanon	Attorney-at-Law
Smith, B. P.	Wyandot	Carey	Attorney-at-Law
Stanberry, Henry	Franklin	Columbus	Lawyer
Stanton, Benjamin	Logan	Bellefontaine	Lawyer
Stebbins, Albert V.	Henry	Damascus	Farmer
Stilwell, Richard	Muskingum	Zanesville	Lawyer
Stickney, E. T.	Seneca	Republic	Farmer
Stidger, Harman	Stark	Canton	Physician and Farmer
Struble, James	Hamilton	Derbis	Farmer
Swan, J. R.	Franklin	Columbus	Lawyer
Swift, L.	Summit	Akron	Farmer
Taylor, James W.	Erie	Sandusky	Editor
Thompson, H.	Shelby	Sidney	Attorney-at-Law
Thompson, Joseph	Stark	New Franklin	Farmer
Townshend, Norton S.	Lorain	Elyria	Physician
Vance, Elijah	Butler	Hamilton	Lawyer
Vance, Joseph	Champaign	Urbana	Farmer
Warren, W. M.	Delaware	Scioto Bridge	Farmer
Way, Thomas A.	Monroe	Graysville	Farmer
Williams, J. Milton.	Warren	Lebanon	Attorney-at-Law
†Wilson, E.	Ashtabula	Kelloggsville	Attorney-at-Law
Woodbury, E. B.	Wayne	Jeromeville	Farmer
‡Worthington, James T.	Ross	Chillicothe	Farmer
Medill, William, Pres.	Fairfield	Lancaster	Attorney-at-Law
Gill, W. H., Secretary	Guernsey	Cambridge	Printer and Editor
Prentiss, W. S. V.			
Assistant Secretary.	Knox	Mt. Vernon	Attorney-at-Law
Mortley, David H.,			
Assistant Secretary.	Morgan	McConnelsville	Joiner
Smith, J. V., Reporter	Hamilton	Cincinnati	Editor
Reed, Henry,			
Assistant Reporter.	Franklin	Columbus	Editor
°Okey, H.,			
Sergeant-at-Arms.	Monroe	Woodsfield	Collector
Arnold, James,			
Door-Keeper.	Richland	Mansfield	Carpenter

*In place of Daniel A. Robertson, resigned.

†In place of Leander Firestone, resigned.

‡In place of Wesley Claypool, resigned.

°In place of John W. Carrollton, resigned.

MEMBERS AND OFFICERS OF THE THIRD OHIO CONSTITUTIONAL CONVENTION, 1873-74.

*M. R. Waite } Presidents.
†Rufus King }

D. W. Rhodes, Secretary.
J. G. Adel, Official Reporter.

Lewis D. Campbell, Vice-President.
Jas. B. Wilbur, Sergeant-at-Arms.

Names of Delegates	County	Post-Office	Occupation
Adair, William	Carroll	Leesville	Lawyer
Albright, Charles J.	Guernsey	Cambridge	Printer
Andrews, S. J.	Cuyahoga	Cleveland	Lawyer
Alexander, Isaac N.	Van Wert	Van Wert	Lawyer
Baber, Llewellyn	Franklin	Columbus	Lawyer
Bannon, J. W.	Scioto	Portsmouth	Lawyer
Barnet, David	Preble	Camden	Farmer and Miller
Beer, Thomas	Crawford	Bucyrus	Lawyer
Bishop, R. M.	Hamilton	Cincinnati	Merchant
Blose, John H.	Clarke	Springfield	Farmer and Merchant
Bosworth, Perry	Lake	Painesville	Lawyer
Burns, Barnabas	Richland	Mansfield	Lawyer
Byal, Absalom P.	Hancock	Findlay	Farmer
Caldwell, John L.	Pike	Beaverstown	Physician and Surgeon
Carbery, Joseph P.	Hamilton	Cincinnati	Merchant
Chapin, Harlow	Washington	Harmar	Civil Engineer
Clark, S. W.	Jefferson	Richmond	Farmer and Minister
Clark, Milton L.	Ross	Chillicothe	Lawyer
Clay, Adam	Montgomery	Miamisburg	Lawyer
Coats, John B.	Union	Marysville	Lawyer
Cook, Asher	Wood	Perrysburg	Lawyer
Cowen, D. D. T.	Belmont	St. Clairsville	Lawyer
Cunningham, T. E.	Allen	Lima	Lawyer
De Setiguer, R.	Athens	Athens	Lawyer
Doan, A. W.	Clinton	Wilmington	Lawyer
Dorsey, G. Volney	Miami	Piqua	Physician and Banker
Ewing, Thomas	Fairfield	Lancaster	Lawyer
Foran, M. A.	Cuyahoga	Cleveland	Cooper
Freiberg, Julius	Hamilton	Cincinnati	Merchant and Mfr.
Gardner, Mills	Fayette	Washington C. H.	Lawyer
Godfrey, T. J.	Mercer	Celina	Lawyer and Banker
Greene, Jacob J.	Defiance & Pauld'g.	Defiance	Editor
Griswold, S. O.	Cuyahoga	Cleveland	Lawyer
Gurley, John J.	Morrow	Mt. Gilead	Lawyer
*Guthrie, Harvey	Shelby	Sidney	Farmer
Hale, John C.	Lorain	Elyria	Lawyer
Herron, John W.	Hamilton	Cincinnati	Lawyer
Hill, George William	Ashland	Ashland	Physician
Hitchcock, Peter	Geauga	Burton	Farmer
Hoadly, George	Hamilton	Cincinnati	Lawyer
Horton, Joseph D.	Portage	Ravenna	Lawyer
Hostetter, J. C.	Stark	Minerva	Farmer
Humphreville, Samuel	Medina	Medina	Lawyer
Hunt, Samuel F.	Hamilton	Cincinnati	Lawyer
Jackson, Lyman J.	Perry	New Lexington	Lawyer
Johnson, E. H.	Hamilton	Ross	Farmer
Kerr, W. P.	Licking	Granville	Teacher
Kraemer, A.	Ottawa	Oak Harbor	Lawyer
*Keck, Josiah L.	Hamilton	Cincinnati	
Layton, W. V. M.	Auglaize	Wapakoneta	Lawyer
McBride, John K.	Wayne	Wooster	Lawyer
†McCauley, John	Seneca	Tiffin	Lawyer
McCormick, John W.	Gallia	Gallipolis	Farmer and Mfr.
Merrill, Ozias	Fulton	Ai	Farmer
Miller, George D.	Darke	Greenville	Farmer
‡Miner, John L.	Hamilton	Cincinnati	Lawyer
Mitchener, Charles H.	Tuscarawas	New Philadelphia	Lawyer
Mueller, Jacob	Cuyahoga	Cleveland	Lawyer
Mullen, Thomas J.	Adams	West Union	Farmer and Lawyer
Neal, Henry S.	Lawrence	Ironton	Lawyer
°O'Connor, John D.	Seneca	Tiffin	Physician
Okey, William	Monroe	Woodsfield	Lawyer
Page, Henry F.	Pickaway	Circleville	Lawyer
Pease, Anson	Stark	Massillon	Lawyer
Phellis, Charles	Madison	Rosedale	Farmer
Phillips, William H.	Hardin	Kenton	Physician and Surgeon
Pond, F. B.	Morgan	McConnelsville	Lawyer
Powell, Thomas W.	Delaware	Delaware	Lawyer
Pratt, Albert M.	Williams	Bryan	Lawyer
Reilly, J. W.	Columbiana	Wellsville	Lawyer

*Resigned. †President, vice M. R. Waite, resigned.
*Vice Smith, of Shelby, deceased.
*Resigned. †Vice O'Connor, deceased. ‡Vice Keck, resigned. °Deceased.

Rickly, John J.	Franklin	Columbus	Banker
Root, J. M.	Erie	Sandusky	
Rowland, Charles W.	Hamilton	Cincinnati	Merchant
Russell, Daniel A.	Meigs	Pomeroy	Lawyer
Russell, Charles C.	Muskingum	Zanesville	Banker
Sample, William	Coshocton	Coshocton	Lawyer
Scofield, W. E.	Marion	Marion	Lawyer
Scribner, C. H.	Lucas	Toledo	Lawyer
Sears, John D.	Wyandot	Upper Sandusky	Lawyer
Shaw, John	Clermont	New Richmond	Farmer
Shultz, E.	Montgomery	Miamisburg	Manufacturer
Smith, John A.	Highland	Hillsboro	Lawyer
*Smith, Edmund	Shelby	Sidney	Lawyer
†Steedman, James B.	Lucas	Toledo	Printer
Thompson, T. F.	Warren	Lebanon	Lawyer
Townsend, Amos	Cuyahoga	Cleveland	Merchant
Townsley, Thomas P.	Greene	Xenia	Merchant
Tripp, James	Jackson	Jackson	Lawyer
Tulloss, R. S.	Knox	Utica	Farmer
Tuttle, George M.	Trumbull	Warren	Lawyer
Tyler, A. H.	Henry	Napoleon	Physician
Van Valkenburgh, Jas. S.	Sandusky	Fremont	Editor and Publisher
Voorhis, Daniel Van.	Muskingum	Nashport	Farmer
Voorhes, Carolus F.	Holmes	Millersburg	Lawyer
Voris, Alvin C.	Summit	Akron	Lawyer
Waddle, W. G.	Harrison	New Athens	Minister
Watson, Cooper K.	Huron	Norwalk	Lawyer
Weaver, S. P.	Putnam	Leipsic	Farmer
Wells, Harvey	Vinton		
West, William H.	Logan	Bellefontaine	Lawyer
White, Chilton A.	Brown	Georgetown	Lawyer
White, A.	Hocking	Logan	Farmer
Wilson, D. M.	Mahoning	Youngstown	Lawyer
Woodbury, H. B.	Ashtabula	Jefferson	Lawyer
Young, John H.	Champaign	Urbana	Lawyer
Young, William J.	Noble	Sarahsville	Farmer and Broker

*Deceased. †Vice Waite, resigned.

NAMES OF OFFICERS.

Names of Officers	County	Post-Office	Occupation
Waite, M. R., President.	Lucas	Toledo	Lawyer
King, Rufus, President.	Hamilton	Cincinnati	Lawyer
Campbell, Lewis D., Vice-President.	Butler	Hamilton	Farmer
Adel, J. G., Official Reporter.	Franklin	Columbus	Reporter
Rhodes, Dudley W., Secretary.	Delaware	Delaware	Insurance Agent
Hurlbutt, Robert F., 1st Ass't Secretary.	Delaware	Delaware	Lawyer
Fisher, D. S., 2d Ass't Secretary.	Allen	Lima	Printer
Gutzwiller, Joseph, 3d Ass't Secretary.	Hancock	Findlay	Clerk
Myers, Allen O., 4th Ass't Secretary.	Pickaway	Circleville	Journalist
Wilbur, James B., Sergeant-at-Arms.	Cuyahoga	Cleveland	Merchant
*Morgan, James, 1st Assistant.	Hamilton	Cincinnati	Manufacturer
†Blankner, Frederick, 2d Assistant.	Franklin	Columbus	None
Rhodes, Charles, P. M.	Jackson	Jackson	Printer
‡Malloy, John R., Page.	Greene	Xenia	
Beamis, James D.	Lorain	Elyria	
Wells, Emery	Franklin	Columbus	
Cloud, John W.	Franklin	Columbus	
Grant, Glenn M.	Franklin	Columbus	
°Cool, W. A.	Franklin	Columbus	

*Resigned. †Resigned. ‡Vice Cool, resigned. °Resigned.

DELEGATES TO FOURTH OHIO CONSTITUTIONAL CONVENTION, 1912

Name	Pol.	County	Home P. O. Address	Occupation
George W. Pettit	D	Adams	West Union	Lawyer and Farmer
James Halfhill	R	Allen	Lima	Lawyer
James M. Fluke	D	Ashland	Nankin	Farmer
William S. Harris	R	Ashtabula	Saybrook	Farmer
E. L. Lampson	R	"	Jefferson	Editor
Henry W. Elson	D	Athens	Athens	Professor
S. A. Hoskins	D	Auglaize	Wapakoneta	Lawyer
J. C. Tallman	D	Belmont	Bellaire	Lawyer
J. W. Kehoe	D	Brown	Georgetown	Banker
David Pierce	D	Butler	Hamilton	Lawyer
Stanley Shaffer	D	"	Hamilton	Lawyer
Eli D. Shaw	R	Carroll	Minerva	Farmer and Banker
Robert Henderson	D	Champaign	Urbana	Physician
William M. Rockel	R	Clark	Springfield	Lawyer
Alexander Dunn	R	Clermont	New Richmond	Preacher and Farmer
Bernard Y. Collett	R	Clinton	Wilm'gt'n, R.F.D. 4.	Farmer
Percy Tetlow	R	Columbiana	Leetonia	Miner
Allen M. Marshall	D	Coshocton	Coshocton, R.F.D. 6.	Farmer
George W. Miller	D	Crawford	Bucyrus	Banker
Robert Crosser	D	Cuyahoga	Cleveland	Lawyer
W. C. Davio	D	"	Cleveland	Lather
E. W. Doty	R	"	Cleveland	Mgr. Mfgr. Appr. Co.
John D. Fackler	R	"	Cleveland	Lawyer
Thos. G. Fitzsimmons	D	"	Cleveland	Manufacturer
Thomas E. Farrell	R	"	Cleveland	Waiter
Aaron Hahn	D	"	Cleveland	Lawyer
D. E. Leslie	D	"	Cleveland	Business Man
Harry D. Thomas	Soc	"	Cleveland	Labor Official
S. S. Stillwell	R	"	Cleveland	Deputy Clerk Court
E. T. Wagner	D	Darke	Greenville	Farmer
John W. Winn	D	Defiance	Defiance	Lawyer
F. M. Marriott	D	Delaware	Delaware	Lawyer
E. B. King	R	Erie	Sandusky	Lawyer
Frank P. Miller	D	Fairfield	Lancaster, R.F.D 5.	Farmer
Humphrey Jones	R	Fayette	Washington C. H.	Lawyer
J. H. Harbarger	R	Franklin	Columbus	Real Estate
George W. Knight	R	"	Columbus	Professor
E. A. Peters	R	"	Groveport	Farmer
John C. Rorick	R	Fulton	Wauseon	Retired
Roscoe J. Mauck	R	Gallia	Gallipolis	Lawyer
H. K. Smith	R	Geauga	Chardon	Lawyer
S. D. Fess	R	Greene	Yellow Springs	College President
Harvey Watson	D	Guernsey	New Concord	Farmer and Teacher
Herbert Bigelow	Ind	Hamilton	Cincinnati	Preacher
Stanley E. Bowdle	D	"	Cincinnati	Lawyer
Henry F. Cordes	R	"	Cincinnati	Stairbuilder
J. C. Hoffman	D	"	Cincinnati	Brewery Worker
George W. Harris	D	"	Cincinnati	Retired Merchant
Wm. P. Halenkamp	Ind	"	Cincinnati	Pressman
Starbuck Smith	R	"	Cincinnati	Lawyer
Hiram Peck	D	"	Cincinnati	Lawyer
William Worthington	R	"	Cincinnati	Lawyer
Andrew Beyer	D	Hancock	Arlington	Farmer
Frank G. Hursh	D	Hardin	McGuffey, R.F.D. 1.	Farmer
David Cunningham	R	Harrison	Cadiz	Banker and Lawyer
W. W. Campbell	R	Henry	Napoleon	Lawyer
H. M. Brown	R	Highland	Hillsboro	Farmer
R. B. Longstreth	R	Hocking	Union Furnace	Farmer
W. R. Walker	R	Holmes	Killbuck	Preacher
Otto M. Harter	D	Huron	Norwalk	Druggist
Frank Lambert	D	Jackson	Wellston	Carpenter
Frank H. Kerr	R	Jefferson	Steubenville	Lawyer
Raymond McClelland	Ind	Knox	Fredericktown	Farmer
Fletcher D. Malin	D	Lake	Painesville	Lumberman
Fred G. Leete	D	Lawrence	Ironton	Civil Engineer
Henry C. Keller	D	Licking	Hanover	Farmer
John R. Cassidy	D	Logan	Bellefontaine	Lawyer
D. J. Nye	R	Lorain	Elyria	Lawyer
H. C. Redington	D	"	Elyria	Lawyer
Walter F. Brown	R	Lucas	Toledo	Lawyer
W. W. Farnsworth	R	"	Waterville	Farmer
John Ulmer	Ind. Rep	"	Toledo	Retired Grocer
E. W. Johnson	D	Madison	West Jefferson	Lawyer and Banker
D. F. Anderson	R	Mahoning	Youngstown	Lawyer
C. H. Norris	D	Marion	Marion	Lawyer
Frank W. Woods	R	Medina	Medina	Lawyer
O. H. Stewart	R	Meigs	Middleport	Lawyer
H. C. Fox	D	Mercer	Coldwater	Merchant
Joseph Defrees	D	Miami	Piqua, R. F. D. 1.	Farmer
C. Ludey	D	Monroe	Woodsfield	Merchant

Dennis Dwyer	D.	Montgomery	Dayton	Lawyer
W. W. Stokes	D.	"	Dayton	Lawyer
John Roehm	D.	"	Dayton	Lawyer
J. W. Tannehill	D.	Morgan	McConnelsville	Editor
Robert A. Beatty	Ind.	Morrow	Cardington	Farmer
Illion Moore	Soc.	Muskingum	Carlwick	Farmer
Lawrence Kunkle	D.	"	Zanesville	Glassblower
J. A. Okey	D.	Noble	Caldwell	Lawyer
William Miller	R.	Ottawa	Gypsum	Farmer
W. B. Brattain	D.	Paulding	Paulding	Lawyer
Thomas D. Price	D.	Perry	New Lexington	Lawyer
H. M. Crites	D.	Pickaway	Circleville	Manufacturer
M. A. Brown	D.	Pike	Harris Station	Farmer
George H. Colton	R.	Portage	Hiram	Professor
Henry E. Eby	D.	Preble	Camden	Farmer
N. E. Mathews	R.	Putnam	Ottawa	Banker
John F. Kramer	D.	Richland	Mansfield	Lawyer
J. L. Baum	R.	Ross	Storms	Grain Dealer
M. Stamm	D.	Sandusky	Fremont	Doctor
N. W. Evans	R.	Scioto	Portsmouth	Lawyer
Charles D. Holtz	R.	Seneca	Tiffin, R. F. D. 7	Farmer
W. E. Partington	D.	Shelby	Sidney	Supt. and Teacher
A. Ross Read	D.	Summit	Akron	Editor
Isaac Harter	D.	Stark	Canton	Banker
Frank C. Wise	R.	"	New Berlin	Farmer
B. F. Weybrecht	D.	"	Alliance	Manufacturer
W. B. Kilpatrick	D.	Trumbull	Warren	Lawyer
Victor Donahey	D.	Tuscarawas	New Philadelphia	Printer
W. B. Stevens	R.	"	Uhrichsville	Lawyer
Michael T. Cody	D.	Union	Marysville, R.F.D.	Farmer
Ernest I. Antrim	R.	Van Wert	Van Wert	Banker
C. O. Dunlap	R.	Vinton	McArthur	Doctor
J. Milton Earnhart	D.	Warren	Lebanon	Farmer
John H. Riley	R.	Washington	Marietta	Lawyer
Frank Taggart	R.	Wayne	Wooster	Lawyer
Solomon Johnson	D.	Williams.	Stryker	Farmer
Richard A. Beatty	D.	Wood	Bowling Green	Oil Operator
J. C. Solether	R.	"	Jerry City	Farmer
Franklin J. Stalter	D.	Wyandot	Upper Sandusky	Lawyer

HELPS AVAILABLE FOR THOSE INTERESTED IN THE FOURTH CONSTITUTIONAL CONVENTION OF OHIO

DOCUMENTS.

Thorpe. F. N.—The federal and state constitutions, colonial charters and other organice laws of the states, territories and colonies. now or heretofore forming the United States of America. Seven vols. Washington, 1909.

This is without exception the most complete and exhaustive work on the subject now available. It supersedes all previous compiliations and digests. It contains the full text of all the constitutions that have at any time been in force in any of the states or territories of the United States, also a carefully prepared index of 86 pages and a "list of authorities," containing 21 pages. The latter is a guide to everything of importance that had been written on state constitutions to the beginning of the year 1908.

This work will be found in all the larger libraries of the state. It is published by the Government Printing Office, Washington, D. C. Delegates to the constitutional convention can probably get it free through their congressman.

Galbreath, C. B.—Initiative and referendum, 1911.

A pamphlet of 79 pages, containing complete and up-to-date material on the subject.

Contents: Terms defined; progress of initiative and referendum in America; initiative and referendum in Ohio; constitutional provisions of Arizona, Arkansas, California, Colorado, Maine, Missouri, Montana, Nevada, New Mexico, Oklahoma, Oregon, South Dekota, Utah; Taft on the referendum; views pro and con by prominent men of Oregon; complete tabulated statement of votes on all initiative and referendum measures submitted in Oregon; an extended bibliography giving references to articles for and against the initiative and referendum in books, pamphlets and documents.

Of the different editions of this, about 9,000 copies have been distributed. It was published by the Board of Library Commissioners, Columbus, Ohio, from whom it may be had on application.

Galbreath, C. B.—Our national constitution and the constitutions of Ohio. 1911.

A pamphlet og 184 pages, compiled especially for the forthcoming constitutional convention.

Contents: The constitution of the United States; the ordinance of 1878 for the government of the Northwest Territory; the constitutional convention of 1802; the constitution of 1802; the constitutional convention of 1850151; the constitutional convention of 1873-74; full text of the constitution submitted in 1874, with a detailed statement of changes proposed and an account of its defeat and the contributing causes; premilinaries of the constitutional convention 1912.

This pamphlet is published by the Board of Library Commissioners, Columbus, Ohio, from whom it may be had on application.

Ohio. Constitutional Convention, 1802—The journal of the convention of the territory of the United States Northwest of the Ohio. 1802.

As originally published in separate form, this is a very rare document. There is a copy in the Ohio Supreme Court Law Library. It was reprinted

and appended to the Senate and House Journals of 1827. The full text is found also in the Ohio Archaeological and Historical Society Publications, Vol. 5, p. 80-153; in The New Constitution, by Samuel Medary, and in (Ohio) report of Secretary of State, 1876, p. 35-74. The proceedings are very briefly recorded.

Ohio. Constitutional Convention, 1850-51—Report of the debates and proceedings of the convention for the revision of the constitution of the State of Ohio. 1851.

This work is published in two volumes of 751 and 895 pages, respectively. The debates are amply reported.

Ohio. Constitutional Convention 1873-74—Official report of the proceedings and debates of the third constitutional convention of Ohio. 1874.

This is a voluminous record. It is included in two volumes of 1335 and 3570 pages, respectively. The second volume is in three parts. Part three has an appendix of fourteen pages. In this work the views of delegates are set forth in unabridged form on practically every section of the constitution.

BOOKS AND PERIODICALS.

Bryce, James—The state governments. (In his The American commonwealth, 1896. V. 1, p. 409-666.)

Bryce, James—New edition (1910 v. 1, p. 408-479).

This well-known work is readily available in public and private libraries. Of especial interest at this time are the chapters on "state constitutions" and "the development of state constitutions."

Burnet, Jacob—Details of the state convention (1802). (In his Notes on the early settlement of the Northwestern Territory, 1847, p. 350-69.)

As a friend and associate of Governor St. Clair, Judge Burnet is disposed to criticise the haste with which Ohio was rushed into the Union and other acts of the convention. This chapter of his well-known work is very valuable, however, as it presents the carefully considered views of a talented and keenly interested observer.

Dealey, J. R.—Our state constitutions. (In Annals of American Academy of Political and Social Science. March, 1907.)

An excellent monograph of 98 pages.

Dodd, W. F.—Revision and amendment of state constitutions. (Johns Hopkins University studies in historical and political science; new Ser. No. 1.) 1911. Price, $2.

This is a very valuable monograph. It will be of great aid to all members of constitutional conventions and to every student of constitutional law.

Medary, Samuel, Ed.—The New Constitution, Vol. 1, Nos. 1-26, May 5—November 17, 1849.

This periodical was published to promote interest in favor of a constitutional convention. It was suspended after the autumn election when the people had voted for convention to form a new constitution. This volume of 408 pages contains a great fund of information relative to the campaign for the promotion of which it was issued. Many editorials from the newspapers of the state are quoted. The volume is now very rare. There is a copy in the Ohio State Library.

Oberholtzer, E. P.—The referendum in America; together with some chapters on the initiative and the recall. New edition with supplement covering the years from 1900 to 1911. Price, $2.

The latest edition of an important work.

Reinsch, P. S.—Readings on American state government. 1911. Price, $2.

An excellent recent work containing an interesting chapter on constitutional conventions.

Ryan, D. J.—The first constitution of Ohio; what influenced its adoption, and its influence upon Ohio. (In Ohio Centennial Celebration, 1903, p. 13-25.)

An address delivered November 29, 1902, at Chillicothe, in commenoration of the adoption of Ohio's first constitution.

Thorpe, F. N.—A short constitutional history of the United States. 1904. Price, $1.75.

Treats of state and national constitutions.

Mr. Galbreath has recently published a circular entitled, "The Liquor Traffic—State Constitutional Provisions for Its Regulation or Suppression." It contains the full text of all constitutional provisions on the subject.

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